

Juergen Hoerer May 12, 2005
Volume II

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Pages: 117-265

Exhibits: 66-79

IN THE UNITED STATES DISTRICT
FOR THE DISTRICT OF MASSACHUSETTS

- - - - - X

BRAUN GmbH,

Plaintiff,

v.

Civil Action.

RAYOVAC CORPORATION,

No. 03-CV-12428

-WGY

Defendant.

- - - - - X

VIDEOTAPED DEPOSITION OF JUERGEN HOESER, Cont'd

May 12, 2005

8:17 a.m.

DWYER & COLLORA, LLP

600 Atlantic Avenue

Boston, Massachusetts

Reporter: Carol A. Pagliaro, CSR/RPR/RMR

EXHIBIT E

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<p style="text-align: right;">Page 118</p> <p>1 A P P E A R A N C E S:</p> <p>2</p> <p>3 R O P E S & G R A Y</p> <p>4 By William L. Patton, Esq.</p> <p>5 One International Place</p> <p>6 Boston, Massachusetts 02110</p> <p>7 617-951-7884</p> <p>8 Counsel for the Plaintiff</p> <p>9</p> <p>10 K I R K L A N D & E L L I S, L L P</p> <p>11 By James A. Shimota, Esq.</p> <p>12 200 East Randolph Drive</p> <p>13 Chicago, Illinois 60601</p> <p>14 312-861-2336</p> <p>15 Counsel for the Defendant</p> <p>16</p> <p>17 A L S O P R E S E N T: Lily Olm, Interpreter</p> <p>18 Jody Urbati, Videographer</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">Page 120</p> <p>1 77 German original of the Document</p> <p>2 Bates-stamped B 006536 to B 006635 232</p> <p>3 E X H I B I T S</p> <p>4 N O. PAGE</p> <p>5 78 Document Bates stamped B006636 to</p> <p>6 B 006735 256</p> <p>7 79 German original of the document at</p> <p>8 B 006636 ending at B 006735 257</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13 *Original exhibits retained by Atty. Shimota</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
<p style="text-align: right;">Page 119</p> <p>1 I N D E X</p> <p>2 C O N T ' D E X A M I N A T I O N O F:</p> <p>3 P A G E</p> <p>4 J U E R G E N H O E S E R</p> <p>5 By Atty. Shimota</p> <p>6 121</p> <p>7</p> <p>8</p> <p>9 E X H I B I T S</p> <p>10 N O. PAGE</p> <p>11 66 Drawing by Atty. Shimota 131</p> <p>12 67 Document Bates-stamped B 2043 to B 2047 148</p> <p>13 68 (Unidentified)</p> <p>14 69 Document Bates-stamped B 2371 to B 2402 149</p> <p>15 70 (Unidentified) 202</p> <p>16 71 Chart prepared for Mr. Greaves 211</p> <p>17 72 US Patent No. 6236890 220</p> <p>18 73 Document Bates-stamped B 007112 ENG to</p> <p>19 B 007149 ENG 222</p> <p>20 74 Document Bates-stamped B 007112 to</p> <p>21 B 007149 222</p> <p>22 75 Drawing 232</p> <p>23 76 Document Bates-stamped B 006536 to</p> <p>24 B 006635 232</p>	<p style="text-align: right;">Page 121</p> <p>1 P R O C E E D I N G S</p> <p>2 T H E V I D E O G R A P H E R: Here begins Videotape</p> <p>3 No. 4 in the deposition of Juergen Hoerer in the</p> <p>4 matter of Braun vs Rayovac Corporation. Today's</p> <p>5 date is May 12, 2005. The time 8:09 a.m. The Court</p> <p>6 Reporter today is Carol Pagliaro of LegaLink Boston.</p> <p>7 Please begin.</p> <p>8 J U E R G E N H O E S E R,</p> <p>9 a witness called on behalf of the Defendant, having</p> <p>10 previously been duly sworn, was deposed and</p> <p>11 testified as follows:</p> <p>12 C O N T I N U E D E X A M I N A T I O N</p> <p>13 (With the Assistance of an Interpreter)</p> <p>14 B Y A T T Y. S H I M O T A:</p> <p>15 Q. Welcome back. At the end of the day</p> <p>16 yesterday we were discussing the 3 different types</p> <p>17 of drying which are now involved in Braun's cleaning</p> <p>18 center?</p> <p>19 A. Yes.</p> <p>20 Q. And putting aside the cleaning center with</p> <p>21 the fan, are there products on the market that are</p> <p>22 available that have the conduction heater and also</p> <p>23 the passive drying?</p> <p>24 A. Do you mean of Braun or from other companies</p>

2 (Pages 118 to 121)

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1 as well?

2 Q. I guess let's start first with Braun and
3 then if you are aware of another company that sells.

4 A. Braun has one product on the market that
5 uses passive drying and one product that uses
6 inductive drying.

7 Q. And do both of those products look
8 physically like the cleaning center with the fan?

9 A. No.

10 Q. What are the differences between the
11 products with the fan and the, well, I guess, first
12 the product with the induction heating?

13 A. Do you refer only specifically now to the
14 heating unit or to the whole apparatus?

15 Q. I guess I'm asking about the whole
16 apparatus.

17 A. The apparatus with the inductive heating
18 does not have a dome, so it is much flatter, meaning
19 it is not as high, and it doesn't have any air
20 inlets.

21 Q. How does the passive drying system -- or how
22 does the product which employs passive drying differ
23 from the product that has the drying with the fan?

24 A. The body of the apparatus is smaller,

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1 because it does not contain a fan, and there is no
2 air inlet.

3 Q. Are there, or to the extent -- do you know
4 whether it is Braun's plan to phase out the product,
5 the cleaning center product, which employs the fan
6 for drying?

7 ATTY. PATTON: Object to the form of the
8 question as being outside the notice.

9 A. The situation today is such that these
10 products are going to be manufactured in the future.

11 Q. So all 3 products are going to be
12 manufactured on a going-forward basis?

13 A. Yes.

14 Q. And are all 3 products offered for sale in
15 the United States?

16 A. I can't answer that question.

17 Q. That's something I guess would be asked to
18 someone in marketing?

19 A. Correct.

20 Q. Who -- well, were you directed by anyone to
21 develop the passive drying and induction heating
22 drying in the cleaning centers?

23 A. The inductive heating method was developed
24 by a colleague of mine and the passive one where

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1 nobody had to develop it because nothing is done.

2 Q. Who is the colleague who developed the
3 induction heating?

4 A. It's discretion geared towards the project
5 manager or the person who worked with me on the same
6 hierarchical level.

7 Q. I guess if I could ask the names of both
8 individuals.

9 A. The name of mine colleague is Juergen Wolf
10 and the project manager is Christoph Kleeman.

11 Q. Do you know if Mr. Wolf generated documents
12 related to his work on the induction heating system?

13 A. Of course.

14 Q. Do you know whether Braun has gathered
15 documents generated by Mr. Wolf related to his work
16 on the induction heating element in connection with
17 this litigation?

18 A. I don't know.

19 Q. I believe yesterday you said that, correct
20 me if I'm wrong, but I believe you said that two
21 disadvantages of using the fan to dry would have
22 been space constraints and noise; am I remembering
23 correctly?

24 A. Correct.

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1 Q. And how did you come to learn of those
2 disadvantages?

3 A. One issue, when it comes to the apparatus
4 and when you make a survey among customers, it is
5 always related to size. It's not a problem. It's
6 weaker than a problem, so that's the reason why I
7 said the issue, okay?

8 Q. So had you personally seen customer surveys
9 in which they described issues they had with the
10 cleaning center?

11 A. Yes.

12 Q. And in these customer surveys did they
13 express that the size of the device was an issue?

14 A. Yes.

15 Q. And in the customer surveys did customers
16 also voice as an issue noise generated by the fan?

17 A. You have to distinguish one thing, the
18 apparatus also generates noise without the fan.
19 Because the customer has no idea what happens inside
20 of the apparatus, the customer complains about noise
21 in general. The customer doesn't say the fan is too
22 loud, they say the apparatus makes too much noise.

23 Q. I understand. So noise in general is an
24 issue?

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1 A. Yes.
 2 Q. And one way that Braun has sought to
 3 minimize noise is to search for drying methods which
 4 do not employ a fan?
 5 A. Correct.
 6 Q. From where did you receive -- or from whom
 7 did you receive the customer surveys?
 8 A. The results of the customer surveys are
 9 circulated, distributed, among the project managers
 10 and the co-project managers in our company, and they
 11 all originate in market research.
 12 Q. How often are customer surveys typically
 13 distributed amongst the project managers?
 14 A. With regards to a single project one can
 15 expect 2 to 3 surveys per year.
 16 Q. So this product, the cleaning center, has
 17 been on the market since 1999; is that correct?
 18 A. Correct.
 19 Q. We are halfway through 2005, so we are
 20 looking at approximately -- am I correct that you
 21 would have received 10 to 15 customer surveys
 22 regarding the cleaning center?
 23 A. Maybe I have to specify the answer I gave
 24 previously when I answered that we would receive 2

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1 to 3. This only happens for the first one to 2
 2 years when the product is first on the market,
 3 because after that time period the answers won't
 4 differ anymore.
 5 Q. So we are probably looking at about 4 to 6
 6 customer surveys that you received?
 7 A. Yes.
 8 Q. Let me ask first, did you provide the
 9 customer surveys that you receive related to the
 10 cleaning center project to the attorneys in this
 11 case?
 12 A. No.
 13 Q. Did the attorneys ask you for the customer
 14 surveys?
 15 A. No.
 16 Q. Let me ask you this, You said you provided
 17 binders and your notebooks to the attorneys, but now
 18 you have also said you haven't provided the customer
 19 surveys to the attorneys. Is there any other
 20 information that you have -- putting aside your
 21 e-mails, but any other information that you
 22 personally have regarding the cleaning center that
 23 you have not provided to the attorneys?
 24 A. Yes.

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1 Q. And can you tell me what that information
 2 is?
 3 A. There is the stack with the drawings on
 4 paper. I did not transmit this stack with the
 5 drawings, because they are better -- the quality of
 6 the drawings is better in digital form, and then the
 7 communication, the written communications which
 8 existed with certain suppliers with regards to
 9 certain parts, I did not transmit that information
 10 either, and then, well, once the part functions, the
 11 part is delivered, then it's perfectly fine to
 12 discard the document, so I cannot say a hundred
 13 percent that this document still exists.
 14 The reason for that being that from that
 15 moment on it's the plant itself that takes on the
 16 responsibility for the quality of those parts, and
 17 so then the first day where the parts are shipped,
 18 that's the best quality, and that quality will be
 19 maintained.
 20 Q. Aside from the paper drawings and the
 21 communications with suppliers, can you think of any
 22 other information you have related to the cleaning
 23 center project that you have not provided to the
 24 attorneys?

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1 A. To the best of my knowledge right now, no.
 2 Q. Aside from customer surveys do you receive
 3 any other information from marketing?
 4 A. So I also have to make a correction with
 5 regards to what I said before. When I'm talking
 6 about these surveys, that does not only englobe or
 7 include market research information where I go and
 8 ask the customer what he thinks of the product, but
 9 it also contains follow-up studies.
 10 Q. What would be these follow-up -- what would
 11 be the follow-up studies?
 12 A. The follow-up study consists in asking a
 13 client who purchases the product today, in 6 months
 14 from today, what the satisfaction level is with the
 15 product, and when I do a regular market research I
 16 ask whoever I see.
 17 Q. Would both of those, those 2 studies you
 18 mentioned, would both of those be included within
 19 the consumer surveys that you mentioned?
 20 A. Yes.
 21 Q. In general how long were these in terms of
 22 pages, how long were these customer surveys?
 23 A. Somewhere between 50 and 100, even more.
 24 It's more likely that there were more pages.

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1 Q. So something, most likely, greater than a
2 hundred; is that fair to say?

3 A. It depends.

4 Q. So -- well, it could be 50 to a hundred or
5 more?

6 A. Yes.

7 Q. When you receive the consumer surveys from
8 marketing were they distributed by any particular
9 individual or individuals?

10 A. Yes.

11 Q. And can you give me the names of that
12 individual or individuals?

13 A. Hartmuth Landman.

14 Q. Would you please spell that.

15 A. H R A R T M O T and Land man. There is a
16 possibility that Hartmuth has a -th at the end.

17 Q. Do you know if Braun has made any efforts to
18 collect documents from Mr. Landman?

19 A. I don't know.

20 Q. In current iterations, or at least one
21 iteration of the cleaning center I have seen now
22 from Braun -- let me see if I can draw it, because I
23 didn't bring them with.

24 ATTY. SHIMOTA: Let's mark this as

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1 Defendant's Deposition Exhibit No. 66.
2 (Exhibit No. 66 marked for
3 identification.)

4 Q. I don't know if this will help you at all.
5 What I'm trying to illustrate there is that you had
6 what I have seen in -- I guess what I would call the
7 first generation of the cleaning center there would
8 have been a support protruding from the top of it,
9 and now -- and what I have seen, and I don't know if
10 it's the next generation or rather a subsequent
11 generation, there is no longer that support; do you
12 understand what I'm talking about?

13 A. This is correct. This is the first
14 generation, and that's the second generation, and we
15 call this support dome. We took the dome out so
16 that the size is optically reduced.

17 Q. You took the dome out because of the general
18 consumer preference for a smaller device?

19 A. Correct.

20 Q. And so when we were talking earlier about
21 also the drying with induction heating and passive
22 and you mentioned the fact that those devices no
23 longer have the dome, is that what you were
24 referring to?

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1 A. This apparatus, the one which belongs to the
2 second generation, is the apparatus with the
3 inductive drying, but the one with passive drying
4 still has the dome.

5 Q. Just so I can get the numbering correct,
6 because we have first and second generation, first
7 generation has the dome and fan drying; is that
8 correct?

9 A. Mm.

10 Q. Did the next generation have the dome and
11 passive drying?

12 A. No.

13 Q. Let me try and ask the question maybe an
14 easier way. What was the order of the development?
15 We know what came first, then so what came next, and
16 what came last?

17 A. You have to visualize a three-dimensional
18 picture. We need another axis, and this other axis
19 would be the price, the price axis.

20 Q. Can you explain to me how having the price
21 axis would assist there?

22 A. It is the situation such that the first and
23 second generation, that's top price, and the third
24 product is the first generation at a medium price.

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1 Q. Okay, I understand. What was the function
2 of the dome?

3 A. Well, the first function of the dome is to
4 support the razor, the shaver, but the main function
5 it consists in the contact with the shaver and to
6 allow the communication and the charging between the
7 shaver and the cleaning center.

8 Q. As to the first function in the second
9 generation device how is the shaver supported in the
10 cleaning center?

11 A. We expanded the cradle so that the cradle
12 replaces the function of the dome.

13 Q. So do you mean when you say expanded the
14 cradle, did you make the cradle deeper?

15 A. I would say that the cradle became a little
16 higher.

17 Q. That's what I mean; you have got the X, Y,
18 and Z axis, so it moved up in the Z axis?

19 A. Yes.

20 Q. That's what I meant.

21 A. And the cradle does not necessarily consist
22 only of one part.

23 Q. When you say the cradle doesn't consist of
24 just one part, what are you thinking of?

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1 A. The cradle consists of several parts that
 2 have been mounted together.
 3 Q. What are the parts of the cradle that you
 4 are thinking of?
 5 A. The part which became higher that went
 6 beyond the housing of the cradle.
 7 Q. Okay. I understand. So is that a molded
 8 plastic part?
 9 A. Yes.
 10 Q. Which individual, or individuals, came up
 11 with the idea to take the dome out of the second
 12 generation product?
 13 A. The design of the product, the concept of
 14 the product, was developed by myself, was done by
 15 myself, in the very beginning. At that point the
 16 dome was already taken out without having a
 17 technical solution at hand.
 18 Q. So did someone then take your idea and
 19 implement it, or implement the solution?
 20 A. At one point in time I gave the product to
 21 my colleague Wolf, and he then pursued the idea.
 22 Q. I think we have talked about Mr. Wolf
 23 before.
 24 A. Yes.

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1 Q. Did anyone else work on the concept aside
 2 from Mr. Wolf?
 3 A. Yes, Mr. Kleeman. We also had him already,
 4 and Wolf has a team, just like I have a team.
 5 Q. Do you know who is on Wolf's team?
 6 A. I know most of them, but could not, like I
 7 did yesterday, put a list together of the names of
 8 the people, because I know them because I see them.
 9 I don't come up with just the right names.
 10 Q. Am I correct then too you wouldn't know who
 11 in that group works on the cleaning center and who
 12 does not?
 13 A. I know that the project manager is Mr.
 14 Kleeman, but I don't know who helps him.
 15 Q. Did you ever -- in designing the cleaning
 16 center did you ever consider sealing any portion of
 17 the cradle to alleviate evaporation of cleaning
 18 fluid?
 19 A. Yes.
 20 Q. Did you ever implement that idea or ideas?
 21 A. No.
 22 Q. Why did you not implement that idea?
 23 A. Because it would have -- it would have
 24 unnecessarily made the product more complex, and it

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1 wasn't necessary to do that.
 2 Q. How did you consider -- or what part of the
 3 cradle did you consider sealing?
 4 A. So it would be very important at this point
 5 to clarify what exact part we are talking about. I
 6 was talking about the part within the cradle where
 7 the shaver is inserted to.
 8 Q. I think that is what we are talking about,
 9 where you put the shaver in upside down, so I guess
 10 my question is then -- or how did you consider
 11 sealing the cradle?
 12 A. Well, there was the reflection, the idea, to
 13 use a thin rubber layer, rubber lip, which then
 14 covers the shaver, the area around the shaver, but
 15 this doesn't make any sense, because then the drying
 16 procedure would take enormously -- enormous amount
 17 of time.
 18 Q. I understand. So when you say the rubber
 19 lip, when I say a wet suit, you know what I mean by
 20 wet suit?
 21 A. Yes.
 22 Q. So would this rubber lip operate, when you
 23 stuck the shaver in, something like a wet suit,
 24 where the rubber would form -- when you inserted the

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1 cradle in, then the rubber would then form around
 2 the shaver head?
 3 A. Around the body of the shaver beyond the
 4 shaving head.
 5 Q. Do you remember when that idea was
 6 considered?
 7 A. I need to give some more explanations.
 8 Q. Sure.
 9 A. At the very beginning when I started
 10 developing the cleaning center, one of the main
 11 problems I encountered was the evaporation of the
 12 alcohol out of the cartridge, and, related to this,
 13 the lifetime of the cartridge, so I made lots of
 14 analyses, or examinations, in order to reduce the
 15 evaporation from the cartridge, or liquid container,
 16 or the receiver containing the liquid.
 17 Q. How did you ultimately solve the problem,
 18 or -- well, I guess you can't solve the problem of
 19 evaporation. How did you ameliorate the problem of
 20 evaporation?
 21 A. Not at all.
 22 Q. So does the problem still -- well, does the
 23 issue of evaporation still exist as you encountered
 24 it when you began working on the project?

6 (Pages 134 to 137)

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1 A. The problem was solved in a way, because we
2 changed the requirements of the product.

3 Q. And how were the requirements of the product
4 changed?

5 A. When I started working on the project the
6 description was such that the recipient, or the
7 container, should be filled in order to allow 60
8 cleaning cycles, and after I understood the entire
9 product I was able to reduce the cycle number to 30.

10 Q. Okay.

11 A. And at that point the evaporation doesn't --
12 it doesn't -- it's no problem anymore, because then
13 the number of the cycles with the evaporation over
14 24 hours, they are in sync.

15 Q. If you could look then back to the 30(b)(6)
16 notice, which is, I believe, Exhibit 49. Are you
17 prepared to testify regarding the nexus between the
18 secondary considerations of non-obviousness
19 identified in Braun's response to Interrogatory
20 Number 5 and the alleged inventions of the patents
21 in suit?

22 A. Yes.

23 Q. Have you reviewed Braun's response to
24 Rayovac's Interrogatory Number 5?

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1 A. Company Braun or Mr. Braun?

2 Q. Company. Have you seen this interrogatory
3 response before?

4 A. This?

5 Q. Yes.

6 A. I saw it yesterday the first time.

7 Q. Have you reviewed it?

8 A. In broad lines, but the English language
9 which is used is very complicated, and I cannot say
10 that I understand it.

11 Q. I'll ask some questions about it and see.
12 In the middle of this answer it states, With regard
13 to long-felt need, no other commercial product
14 existed in the dry shaver industry capable of easily
15 cleaning the shaving head of a dry shaver, and,
16 so -- well, you can translate that. My question
17 then after that is, Isn't it correct that prior to
18 the introduction of Braun's cleaning center Philip's
19 introduced a liquid cleaning system for shaving
20 heads?

21 ATTY. PATTON: Object to the form of the
22 question. You can answer the question if you
23 understand.

24 A. It's complicated, so I'm going to first give

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1 an answer to what I understood. Yes, since very
2 long time there is need on the market to clean
3 shavers in a reasonable way, and there is a Philip's
4 cleaning system which operates with a liquid, but
5 that was absolutely unsuccessful. That's it.

6 Q. Well, you also stated earlier that you have
7 reviewed documents from the files of Mr. Messinger,
8 correct?

9 A. Yes.

10 Q. And he had compiled information regarding
11 systems for cleaning shavers?

12 A. Right.

13 Q. At one point at least, at least in the
14 sixties, there was a clean system which was called
15 Shavair?

16 A. As far as I recall there was a shaver which
17 had the name Shavair.

18 Q. Wasn't there a cleaning system for the
19 Shavair too?

20 A. As far as I recall this is a shaver which is
21 washable.

22 Q. It states in the next sentence, and I'll
23 just read it, and then I'll ask my question, it
24 says, Prior to the patented inventions cleaning of

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1 the shaving head of a dry shaver was accomplished by
2 manually brushing debris from the shaver head or by
3 disassembly of the shaver head and placement of the
4 cutter in a beaker which could be shaken. My
5 question is, That statement isn't quite accurate, is
6 it?

7 THE INTERPRETER: Could I see that
8 sentence so I could translate that?

9 ATTY. PATTON: Again I object to the
10 form of the question.

11 MR. HOESER: Should I answer?

12 ATTY. PATTON: Yes, you may answer.

13 A. My answer to this evaluation from my
14 perspective is this is a statement which reflects
15 the systems which were successful, only the systems
16 which were successful, which were successfully
17 marketed.

18 Q. So this statement is saying that prior to
19 the patented inventions there were no commercially
20 successful cleaning systems on the market; is that
21 right?

22 ATTY. PATTON: Object to the form of the
23 question.

24 A. As far as I know that is the case.

7 (Pages 138 to 141)

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1 Q. I guess I want to understand Braun's
2 position on long-felt need. I guess, is it Braun's
3 position on long-felt need that there was a
4 long-felt need for a commercially successful
5 cleaning system or just a liquid cleaning system in
6 general?

7 ATTY. PATTON: Again I object to the
8 form of the question. You may answer.

9 A. The commercial need of a product always
10 bases itself on the practical aspect of the product,
11 so in order to be commercially successful that's the
12 underlying basis.

13 Now Braun's goal was to have a system in
14 place which dramatically simplifies the way to clean
15 the shaver without burden the user.

16 Q. Am I correct that Braun's goal was to create
17 a cleaning system in which the user simply -- well,
18 was it Braun's goal to create an automatic cleaning
19 system; was that the aim?

20 A. Well, I would say that this is a level
21 beyond what you just said, because we were looking
22 for a product which is at the same time convenient,
23 which has a good cleaning performance, and which
24 helps the shaver and does not work against the

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1 shaver.

2 THE INTERPRETER: In the last sentence I
3 said the shaver; the shaver is the person who
4 shaves.

5 Q. When you say it doesn't work against the
6 user, are you talking about, for example, the
7 cleaning fluid affecting the person's skin?

8 A. No. I mean in order to improve the quality
9 of life of the user.

10 Q. I see, I see.

11 A. This beaker which you have to shake, that
12 forces the consumer to take all the parts and put
13 them into this liquid, and so that is not what we
14 want; we wanted to make life easier for the user of
15 the equipment.

16 Q. Let me follow up on that question. The
17 shaking beaker, that was a product that was
18 commercially sold by Braun, correct?

19 A. Yes.

20 Q. And when was that product sold?

21 A. In the seventies, eighties, maybe in the
22 early nineties.

23 Q. Have you seen any documents which describe
24 the shaking beaker for shaving heads?

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1 A. I didn't see the documents; I saw the
2 product.

3 Q. Do you know if there exists documents
4 describing the shaking beaker for shaving heads?

5 A. No.

6 Q. Do you know who I should ask whether
7 documents exist regarding the shaking beaker for
8 shaving heads?

9 A. No.

10 Q. Stepping back then to long-felt need,
11 long-felt need identified in Interrogatory Number 5,
12 what documentary evidence does Braun possess which
13 shows the long felt need for the patented invention?

14 A. I am sure that results of a market research
15 study exists, and there is then definitely the
16 triangle from Braun to find the solution to problem
17 -- one of the problems which obviously is a problem
18 because you need to clean the dirt. I mean this is
19 proven by market analysis. There constantly is
20 studies done to find solution for example to improve
21 or to change the brush, and then there are
22 washability tests which are performed since tens of
23 years, since decades, by our competition.

24 Q. Were the washability tests performed by

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1 Braun or by the competition?

2 A. The word test isn't accurate. What I mean
3 to say is that they launch products on the market
4 which are washable.

5 Q. Have you seen documents regarding the
6 washable products?

7 A. The Messinger files are the documents, but
8 the products, and also with the years relating to
9 the product, they are available at Braun.

10 Q. Where would they be available?

11 A. We have a kind of museum in our lab, and so
12 there you find all the shavers which you can
13 possibly imagine.

14 Q. These prototypes, are these physical devices
15 or are there actual paper discussions of --

16 A. No, the real apparatus.

17 Q. So you, personally, I guess you have seen,
18 for example, the washable shavers from, I guess, the
19 past and other devices of that sort?

20 A. Yes.

21 Q. When was that? Do you know how long that
22 museum has been in existence?

23 A. Since 1950.

24 Q. It's been these -- so those products have

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1 been accumulating --
2 A. Yes.
3 Q. -- since then? Is this museum open to
4 anyone? Can anyone come and take a look at it, or
5 -- no, that's a bad, horrible question. Is it open
6 to any employee at Braun to take a look at the
7 museum?
8 A. No.
9 Q. Is it available to the Legal Department at
10 Braun to take a look at the devices kept in the
11 museum?
12 A. Only if they ask.
13 Q. Have you ever seen the attorneys?
14 A. I don't recall. Just to add the following
15 detail, some of the products which you see there,
16 some of the apparatus originate from Mr. Klauer.
17 Q. Which products would have originated from
18 Mr. Klauer?
19 A. I don't know.
20 Q. Do you know how you would find out which
21 products originated from Mr. Klauer?
22 A. I don't know. No way.
23 Q. I guess my question might have sounded like
24 I was asking you do you know all the products that

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1 came from Mr. Klauer. Do you know any of the
2 products which came from Mr. Klauer?
3 A. At the time when Mr. Klauer was still
4 working for Braun, he had in his office a collection
5 of shavers of the competition, and as far as I know,
6 we took the collection over when the Mr. Klauer
7 died, and I take it that some of the apparatus
8 existed twice, so we only kept the ones which we
9 didn't have already.
10 Q. You mention, and I guess I won't mark it,
11 maybe I'll mark it later, on your time line you
12 mention an ultrasonic cleaning bath for shavers?
13 A. Yes.
14 Q. Was that a device which would have been in
15 the office of Mr. Klauer?
16 A. If you are talking about the Philips shaver,
17 the Philips shaving cleaner which Mr. Klauer had, he
18 had one, but he gave that to me. That's why I have
19 2 in my office.
20 Q. The Philip's cleaner is from the nineties,
21 correct?
22 A. Yes.
23 Q. There is also maybe --.
24 ATTY. PATTON: When you find a

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1 convenient place --
2 ATTY. SHIMOTA: Why don't we just go do
3 that now.
4 ATTY. PATTON: -- I'd appreciate a
5 brief recess.
6 ATTY. SHIMOTA: No problem.
7 THE VIDEOGRAPHER: Off the record 9:22
8 a.m.
9 (Recess taken.)
10 THE VIDEOGRAPHER: Back on the record
11 9:30 a.m.
12 Q. As I said, I'd like to mark as Defendant's
13 Exhibit number 67 a document bearing the Bates range
14 B 2043 to B 2047, which is a document that I believe
15 you prepared.
16 (Document marked as Exhibit 67
17 for identification.)
18 A. That's correct.
19 Q. Why did you prepare this document?
20 A. My duty as a project manager was to sell the
21 product for Braun, the company, in Braun -- I mean,
22 within, Braun, and so I took all the information,
23 the historic details I had, and I put them together
24 so that they would be presentable.

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1 Q. To whom -- this isn't the first time you
2 presented this time line, is it.
3 Let me reask the question. That was a
4 bad question. You generated this time line, or at
5 least a first version of it, in the year 2000,
6 correct?
7 A. No.
8 ATTY. SHIMOTA: I'd like to mark as
9 Defendant's Exhibit No. 69 -- and I went out of
10 order again, there will be a 68 -- the document
11 bearing the Bates range of B 2371 to B 2402, which
12 has the German and English translations, and I'll
13 ask you if you recognize this document. I'm going
14 to direct your attention specifically to B 2377.
15 Does this refresh your recollection that you would
16 have generated your time line in approximately March
17 of 2000.
18 (Document marked as Exhibit 69 for
19 identification.)
20 A. This is one of many presentations I gave
21 where I used this time line, but it is not the first
22 one.
23 Q. So when is the first? When did you first
24 generate the time line?

9 (Pages 146 to 149)

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1 A. The history with respect to the shaving
2 cleaning was generated by me approximately in 1996,
3 so and then I added the information I gathered later
4 on to what I already had.
5 Q. What information was in your original 1996
6 time line?
7 A. Until approximately 1995.
8 Q. So everything prior to that time would have
9 been your '96 time line?
10 A. Yes.
11 Q. Did anyone assist you in gathering the
12 information reflected in the time line?
13 A. No.
14 Q. Did you receive any of the information from
15 any other Braun employee?
16 A. No.
17 Q. So where did -- was this -- well, where did
18 you get the information reflected on the time line?
19 A. Practically all the information originates
20 in the Messinger files.
21 Q. You can look on either document, the German
22 or the original. On the first page I guess, I guess
23 B 2377, I guess you look at your -- the one from
24 2000. There is referred to in approximately 1960

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1 cleaning by rinsing with water, cleaning box/pan,
2 cleaning wet and/or dry; do you see that?
3 A. Mm-mm.
4 Q. What is referred to by the cleaning box or
5 pan?
6 A. I can't recall the cleaning box as such. I
7 assume that it was a type of shaking beaker.
8 Q. Do you know if there are any documents from
9 which one could determine what the cleaning box was?
10 A. Only the Messinger files.
11 Q. Further along the time line in 1960 there is
12 referred to an ultrasound bath/customer service;
13 what was the ultrasound bath?
14 A. It's a metal box about this size
15 (indicating) where dirty cutting parts are put into
16 a liquid and they are then cleaned using ultrasound.
17 Q. So what did this device -- where was the --
18 what did the receptacle for the cutting parts look
19 like in this ultrasound bath?
20 A. This happened within the customer service
21 department, the customer has separate small baskets
22 or containers, and the same procedure still exists
23 today.
24 Q. So this ultrasonic cleaning device still

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1 exists at Braun?
2 A. Yes.
3 Q. And so I assume there are documents which
4 would illustrate how this device operates?
5 A. I assume the same thing.
6 Q. Have you ever seen these documents?
7 A. No.
8 Q. Is this ultrasound cleaning device something
9 that Braun manufactures internally or is it
10 purchased from a third party?
11 A. I mean, generally we purchase this item from
12 a catalog, and this is only a help means for the
13 repair person, because the repair person needs,
14 prior to repairing the shaver, being in a position
15 where he can clean the shaver.
16 Q. So you clean -- the repair people clean
17 first and then they repair second?
18 A. Second.
19 Q. I just want to make sure I was understanding
20 you. The cradle in this ultrasonic cleaning device
21 is a basket into which shaving heads are placed; is
22 that right?
23 ATTY. PATTON: Object to the form of the
24 question.

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1 A. Yes.
2 Q. How is the fluid -- or how does fluid enter
3 this ultrasonic cleaning device?
4 A. Well, there is a beaker which contains about
5 5 liters, you go to the faucet, you put a little bit
6 of detergent in there, I mean dishwashing soap, and
7 that's it, you fill it.
8 Q. So you fill up -- I'm trying to think.
9 A. It looks like an aquarium. It doesn't look
10 like an aquarium, it is like an aquarium, because it
11 is metal.
12 Q. In this ultrasonic cleaning device how are
13 -- or how does -- how are the shaving heads dried
14 following cleaning?
15 A. The person removes the basket out of the
16 liquid, this basket consists out of mesh, wire mesh,
17 and then he covers the basket using his hand, and he
18 uses the pressured air to dry it.
19 Q. So is he using a blower essentially?
20 A. Yes.
21 Q. Was that process of drying in place in
22 the -- I guess around 1960, drying off the basket
23 with a blower?
24 A. I don't know. I can't answer that question.

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1 Q. Do you know -- well, if you had to find out
2 how this ultrasonic cleaning device operated, do you
3 know the name of an individual at Braun that you
4 would ask?

5 A. I would go to the laboratory, because there
6 you have all the information -- oh, they have the
7 apparatus.

8 Q. Do you know the name of any particular
9 individual in the laboratory whom you have seen
10 operating this apparatus?

11 A. I know myself.

12 Q. You do it? You have operated the device or
13 you know the name?

14 A. No, I operated the apparatus myself.

15 Q. And this apparatus is in your laboratory?

16 A. Yes.

17 Q. Is there an instruction manual with this
18 device?

19 A. I can only assume.

20 Q. Well, when was the first time you operated
21 this device?

22 A. I don't recall.

23 Q. Was it -- where is this device now. Is it
24 in the laboratory?

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1 A. Yes.

2 Q. Was it in the laboratory when you came to
3 Braun in 1995?

4 A. Certainly.

5 Q. Do you know -- do you know whether this
6 device has been replaced -- well, is this the
7 original device -- let me rephrase. Do you know how
8 long that device has been in the laboratory or in
9 your laboratory area at Braun?

10 A. No.

11 Q. Do you know whether there would be records
12 from which one could ascertain when the particular
13 device in your laboratory was purchased?

14 A. You are talking about the apparatus, right?

15 Q. Yes, that's correct.

16 A. No.

17 Q. Do you know the manufacturer of the
18 apparatus?

19 A. No.

20 Q. You said you assume there is an instruction
21 manual for the apparatus; why do you assume that?

22 A. Because that is dangerous.

23 Q. Where -- well, do you know where Dr. Pahl
24 and Mr. Braun worked prior to your coming to --

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1 well, their location in Braun prior to your coming
2 to the -- be employed by Braun?

3 A. Mr. Braun was sitting at exactly the same
4 desk as I sit myself in '95.

5 Q. And is the ultrasonic cleaning device which
6 we have been discussing -- can you see that from
7 your desk?

8 A. No.

9 Q. How far is it from your desk?

10 A. 20 meters.

11 Q. I'm going to show my real ignorance. Do you
12 know what that approximates into into feet?

13 A. 60 feet.

14 Q. Do you know whether Mr. Braun ever used the
15 ultrasonic cleaning device?

16 A. No.

17 Q. Can you turn to the next page of the time
18 line. You can use whatever version you would like.
19 There are several entries at the bottom which
20 describe a cleaning with water. Do all these
21 entries refer to essentially taking the shaver and
22 washing it under a tap.

23 A. Yes.

24 Q. You see also on there -- do you see also on

Page 157

1 there there is listed, it says first --

2 approximately 1990, first prototype/Dr. Brown/Dr.
3 Pahl?

4 A. Yes.

5 Q. And that information would have been
6 reflected on the time line as you originally created
7 it in 1996; is that right?

8 A. Yes.

9 Q. And why did you believe in 1996 that the
10 first prototype was created approximately in 1990?

11 A. This was a guess of mine. The purpose of
12 this was not to find the accurate year where this
13 item was created, it was just to give an approximate
14 idea.

15 Q. Did you ever ask Mr. Klauer when the first
16 prototype was created?

17 A. I don't recall. I don't think so.

18 Q. Do you know -- I'm going to switch gears for
19 just a second, but let me take a step back. We
20 talked about conception and reduction to practice
21 date yesterday; do you remember that?

22 A. Yes.

23 Q. Do you know whether Mr. Klauer had any
24 information regarding the conception and reduction

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1 to practice dates of the inventions of the patents
2 in suit?

3 A. I don't know that.

4 Q. And do you know whether -- do you know
5 whether Mr. Klauer provided any information
6 regarding conception or reduction to practice dates
7 to lawyers in the United States?

8 A. I don't know that.

9 Q. Do you know whether the lawyers in the
10 United States had any information regarding the
11 conception or reduction to practice dates -- well,
12 let me distinguish a second here. I'm not talking
13 about your counsel today, I'm talking about lawyers
14 in the United States who prosecuted the patents and
15 who handled the prosecution of the patents in suit
16 in the United States.

17 A. I don't know.

18 Q. I didn't ask the question, but my question
19 is, Do you know whether the lawyers in the United
20 States to which I referred had any information
21 regarding conception and reduction to practice?

22 A. I don't know.

23 Q. And I'm not talking again about your current
24 counsel today, but do you know whether any lawyers

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1 asked Mr. Pahl or Dr. Braun -- no, Dr. Pahl or Mr.
2 Braun regarding the conception and reduction to
3 practice dates of the inventions of the patent in
4 suit?

5 A. I don't know.

6 Q. If you see, also again looking at your time
7 line, there is listed thesis for diploma cleaning
8 station Braun/FH Ffm?

9 A. Yes.

10 Q. Can you describe for me briefly what you
11 mean by the thesis for diploma?

12 A. We had, at the time, a student at Braun who
13 wrote his diploma thesis.

14 Q. And how did you come to learn of this
15 thesis?

16 A. Well, I refer to documents I received from
17 Mr. Schaefer, and there were one to 2 pages in this
18 documents where there was the explanation -- where
19 the description was given about the composition of
20 beard dust, the dust which is produced by --

21 Q. The particle size, for example, of beer
22 dust?

23 A. Yes.

24 Q. Did you ever see the entire thesis or just

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1 the 2 pages?

2 A. Then I got the whole diploma thesis.

3 Q. From whom did you get the entire thesis?

4 A. From Mrs. Abraham.

5 Q. So it was retained in -- do you know where
6 Mrs. Abraham got the thesis?

7 A. From the person who wrote the thesis.

8 Q. Did the person who wrote the thesis, did he
9 work at Braun?

10 A. No.

11 Q. So she contacted him -- or let me make sure.
12 He wasn't an employee of Braun when you requested
13 the thesis?

14 A. No.

15 Q. Do you know if he was ever an employee of
16 Braun?

17 A. Not as far as I know.

18 Q. Do you know if the thesis was kept in the
19 archives anywhere at Braun?

20 A. Yes. Mrs. Abraham is in charge of the
21 management of the archives.

22 Q. So she asked the student for it, and then
23 she put it in the archives?

24 ATTY. PATTON: Object to the form of the

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1 question.

2 A. No.

3 Q. Well, how did the thesis come to reside at
4 Braun when you asked for it, to the extent you know?

5 A. All the diploma theses are centrally
6 collected.

7 Q. Where are they centrally collected?

8 A. In Mrs. Abraham's department.

9 Q. Is it a regular occurrence that students
10 work with Braun in conjunction with receiving their
11 thesis -- writing their thesis?

12 A. Yes.

13 Q. And when a student completes his thesis, is
14 it regularly then provided to Braun?

15 A. That is the propriety of Braun.

16 Q. So once this particular thesis we are
17 talking about was written, it was then given to
18 Braun?

19 A. Yes.

20 Q. Did you ever discuss this particular thesis
21 with Mr. Klauer?

22 A. No.

23 Q. Do you know whether Mr. -- if Mr. Klauer
24 provided any assistance in the creation of the

12 (Pages 158 to 161)

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1 thesis written on your time line?
 2 A. I don't know that.
 3 Q. Do you know whether Braun ever attempted to
 4 pursue any patent protection with respect to the
 5 work identified in -- or the work reflected in the
 6 thesis?
 7 A. I don't know.
 8 Q. Have you ever met or spoken with the author
 9 of the thesis?
 10 A. No.
 11 Q. On your time line there is listed a number
 12 of studies by, I guess it's Fresenius?
 13 A. Yes.
 14 Q. There were written reports generated by
 15 Fresenius that were transmitted to Braun?
 16 A. Yes.
 17 Q. And have you seen these written reports?
 18 A. Yes.
 19 Q. And how -- well, I guess how many reports
 20 are there in total from Fresenius?
 21 A. With respect to the first study, which
 22 happened in 1994 approximately, there is one report.
 23 Q. And how large is that report?
 24 A. 3, 4, 5 pages.

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1 Q. Do you know if that report still exists
 2 today?
 3 A. Yes.
 4 Q. How do you know it still exists today?
 5 A. If I recall well, I do have this report.
 6 Q. Did you provide that report to the attorneys
 7 in connection with this litigation?
 8 A. No.
 9 Q. Did the lawyers ask you for that, the first
 10 Fresenius report?
 11 A. No.
 12 Q. With respect to the second Fresenius report
 13 listed on this time line, do you know -- well, can
 14 you describe that -- well, can you describe the
 15 length of that document to me?
 16 A. Somewhere between 50 and 100 pages.
 17 Q. And in both of these reports it says that
 18 they are comparing different cleaning methods; is
 19 that correct?
 20 A. Correct.
 21 Q. Actually, let me take one step back. Do you
 22 know whether the report concerning the second
 23 Fresenius study exists today?
 24 A. Yes.

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1 Q. And how do you know that it exists today?
 2 A. I assume that I have it.
 3 Q. And did you provide that report to the
 4 attorneys?
 5 A. No.
 6 Q. It say both of these reports, again, are
 7 comparing different cleaning methods?
 8 A. That's correct.
 9 Q. What criteria was used to compare the
 10 different cleaning methods?
 11 A. In both cases the hygiene of the shaver
 12 after the cleaning was compared.
 13 Q. Do you recall the results of the -- these --
 14 well, do you recall the results of the studies?
 15 A. Yes.
 16 Q. And what were the results?
 17 ATTY. PATTON: You may answer.
 18 A. Mainly the hygiene, I can state, of the
 19 apparatus was compared after washing it with water
 20 or with the cleaning center. That happened in the
 21 second study.
 22 Q. So that was in the second study; what was
 23 compared in the first study?
 24 A. In the first study the wet cleaning was

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1 compared with the cleaning with a brush.
 2 Q. What was the result -- well, what were the
 3 results in general? I mean, how were the -- how
 4 were the different cleaning methods rated, or were
 5 they rated?
 6 A. The result was that in all of the cases the
 7 cleaning which was performed with the cleaning
 8 center was the most hygienic.
 9 Q. I assume Braun asked Fresenius to conduct
 10 these studies; is that correct?
 11 A. Yes.
 12 Q. Did Braun ask Fresenius to conduct these
 13 studies?
 14 A. In the first study arguments against
 15 washability were looked for.
 16 Q. Were there any arguments against
 17 washability?
 18 A. Yes.
 19 Q. And what were the arguments against
 20 washability?
 21 A. Cleaning the shaver with water makes the
 22 shaver very humid, which leads to the growth of
 23 bacteria, which leads to a very unhygienic state of
 24 the shaver, and this leads to the fact that the

13 (Pages 162 to 165)

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1 shaver smells bad.

2 Q. Was that -- or was the problem with the
3 growth of the bacteria and the odor a problem that
4 you had to work on in order to eventually market the
5 cleaning center?

6 A. Yes.

7 Q. And how did you solve that problem?

8 A. With the cleaning medium.

9 Q. So you, I guess you had to -- is it fair to
10 say you needed to experiment with different cleaning
11 fluids in order to overcome the odor issue?

12 ATTY. PATTON: I object to the form of
13 the question.

14 A. No.

15 Q. Well, when you started at some point you
16 became aware that odor was an issue with respect to
17 the operation of the cleaning center; is that
18 correct?

19 A. No.

20 Q. I think we were discussing the fact that
21 odor could be a problem if bacteria were allowed to
22 grow on the shaver; is that right?

23 A. Yes, but not in the case of cleaning center,
24 only in the case of washability.

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1 Q. I understand.

2 A. You get something wrong.

3 Q. Why was odor not a problem with respect to
4 the cleaning center?

5 A. Because of alcohol.

6 Q. So alcohol inhibits the growth of the
7 bacteria?

8 A. Correct.

9 Q. Aside from the studies that Braun had
10 requested that Fresenius perform, did Braun ever
11 request any other studies from third parties with
12 respect to the cleaning center project?

13 A. Yes.

14 Q. From whom did Braun request studies?

15 A. TUV Rheinland.

16 THE VIDEOGRAPHER: Here ends tape No. 4.
17 Off the record. 10:16 a.m.

18 (Off the record.)

19 THE VIDEOGRAPHER: Here begins Videotape
20 No. 5 in this deposition of Juergen Hoesser. Back on
21 the record 10:24 a.m.

22 Q. I'd like to take you back to topic number
23 16, which is a response to Interrogatory Number 5.
24 In Interrogatory Number 5 one of the secondary

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1 considerations of non-obviousness identified is the
2 commercial success of the cleaning center?

3 A. That's correct.

4 Q. My question is what features of the cleaning
5 center make it successful, make it commercially
6 successful?

7 A. You use the present tense in your question.

8 Q. Do you believe that the cleaning center that
9 Braun sells is commercially successful?

10 A. The cleaning center started with the size of
11 250,000 plant units per year, and at the points
12 where we sold the most, we certainly sold somewhere
13 around 1.5 million, so that's 5 to 6 times more than
14 initially planned, and that, for me, is successful.

15 Q. And what features of the cleaning center
16 made it commercially successful?

17 A. From my perspective there is only one
18 feature which made it that successful, and that's
19 convenience.

20 Q. What about the cleaning center -- what makes
21 it -- what features make the cleaning center
22 convenient?

23 A. The feature fire and forget, where you just
24 simply plug the shaver --

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1 MR. HOESER: -- put the shaver in, press
2 the button, and go away.

3 A. It's called fire and forget.

4 Q. Does the location of the cleaning fluid
5 below the cradle contribute to the commercial
6 success of the cleaning center?

7 A. Yes.

8 Q. And why is that?

9 A. Because that's the best possible way to
10 regroup the elements to get the highest efficiency
11 with the least direct cost.

12 Q. Why is that the most efficient?

13 A. Because it's only one pump, and without
14 using vents I have one liquid circuit --

15 MR. HOESER: -- by using the physical
16 effect.

17 THE INTERPRETER: -- if you use all the
18 physical effect.

19 Q. Does the dome contribute to the commercial
20 success of the cleaning center?

21 A. No.

22 Q. Does the fact that the cradle is not sealed
23 contribute to the commercial success of the product?

24 A. Do you mean now again to where it's -- I

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1 mean it's towards the shaver, sealed towards the
2 shaver?

3 Q. Well, you had taken a look at the claim
4 language, correct, in the past? Maybe I'll just
5 direct you to what I'm asking about. Look at claim
6 14 of the 3208 patent, and it's in claim 14 in the
7 second element in the second clause. It says, said
8 cradle structure being permanently open to
9 atmosphere.

10 My first question is -- it's a
11 statement -- in Braun's commercial product, is the
12 cradle structure permanently open to the atmosphere?

13 A. Yes.

14 Q. And does the fact that the cradle structure
15 is permanently open to the -- or does the fact that
16 the cradle structure is permanently open to the
17 atmosphere contribute to the commercial success of
18 the product?

19 A. Yes.

20 Q. And in what way does it contribute to the
21 commercial success of the product?

22 A. Because of the daily loss of liquid the
23 cartridge empties at that point in time when it
24 also, from the hygienic prospective, isn't good to

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1 use anymore.

2 Q. How does the fact that the cradle structure
3 is open to the atmosphere avoid the loss of fluid?

4 A. It isn't avoided, it is stimulated.

5 Q. So you lose more fluid as a result of having
6 the cradle structure being open to the atmosphere?

7 A. Yes.

8 Q. And why is that a good thing?

9 A. It's very complicated to explain this.

10 Q. Well, you want to -- Braun would like to
11 retain -- well, you, at least I would assume, you
12 want to retain as much cleaning fluid as possible in
13 the cartridge; is that correct?

14 A. No, that's not right.

15 Q. Can you give me one reason why you would
16 want to increase the loss of cleaning fluid?

17 ATTY. PATTON: I object to the form of
18 the question.

19 A. Maybe you can rephrase that question.

20 Q. Well, you said the answer to one of my
21 previous questions of why that's a good thing is the
22 answer is complex and my question -- or I guess my
23 question is can you give me any of the reasons why
24 it's a good thing.

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1 ATTY. PATTON: Same objection.

2 A. Maybe there is a misunderstanding at this
3 point. If we would close the cradle today, then we
4 would have to set all the parameters again. You
5 would have to renew the settings of the parameters.

6 Q. What parameters would have to be renewed?

7 A. Now we have an optimal relation between the
8 volume of the cartridge, the loss per cleaning
9 cycle, and the loss caused by evaporation over 24
10 hours.

11 Q. So the reason that -- or the reason that
12 evaporation is a good thing is that the parameters
13 are set; is that correct?

14 ATTY. PATTON: I object to the form of
15 the question.

16 A. I correct this. The evaporation is not
17 good, but it fits now in an optimal way within the
18 complete system.

19 Q. Why does it fit in an optimal way?

20 A. It's difficult for me to explain now 5 years
21 of development.

22 Q. Is it correct as a result of evaporation the
23 consumer needs to buy more cartridges?

24 A. No.

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1 Q. And that's because you set the replacement
2 time at 30 days as opposed to 60 days as discussed
3 earlier?

4 A. Yes.

5 Q. Is the cleaning center commercially
6 successful because a particular type of drying
7 device is used?

8 A. Yes.

9 Q. And why is that?

10 A. Because of the drying the alcohol is as fast
11 as possible removed from the lacquered parts of the
12 plastic material, and because of this the plastic
13 material is maintained. I mean, it's more durable.

14 Q. Is the commercial success of the cleaning
15 center tied in any way to the use of a fan as
16 opposed to a different type of drying device?

17 A. What do you understand here by commercial
18 success?

19 Q. You are here to speak about Interrogatory
20 Number 5, so I want what you believe, for you to use
21 your understanding of commercial success.

22 A. For the client it doesn't make any
23 difference if we dry the shaver using a fan or
24 inductively. For us, because we want to sell the

15 (Pages 170 to 173)

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1 product, the fan is, from a technical point of view,
2 the easiest solution.

3 Q. So from a consumer point of view it makes no
4 different, though, right?

5 A. Yes. The only thing that matters for the
6 consumer is that it dries fast.

7 Q. Is the cleaning center commercially
8 successful because of the replaceable cartridge?

9 A. Yes.

10 Q. And why is that?

11 A. Because the cartridge supports in an optimal
12 way the convenience.

13 Q. Take it out, throw it away, put a new one
14 in?

15 A. Fire and forget.

16 Q. Did you ever consider designing the cleaning
17 center such that cleaning fluid would be poured in
18 and then dumped when it was finished?

19 Let me rephrase the question. It was
20 bad. Did you ever consider designing the cleaning
21 center such that cleaning fluid would be poured in
22 at the beginning, or when the user starts using the
23 cleaning center, and then would be dumped out once
24 the cleaning fluid was spent or used up.

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1 A. Yes.

2 Q. And did you reject that idea?

3 A. Yes.

4 Q. And was that because that procedure would be
5 less convenient than using the cartridge?

6 A. Yes. And because then the client is in a
7 position where he could use a liquid which is not an
8 appropriate liquid.

9 Q. He could, for example, just pour water in
10 there?

11 MR. HOESER: Or whiskey.

12 ATTY. SHIMOTA: Or whiskey. I got you.

13 Q. Aside from long-felt need and the commercial
14 success is Braun relying upon any other secondary
15 considerations of non-obviousness for the patents in
16 suit?

17 ATTY. PATTON: I object to the form of
18 the question.

19 A. I did not understand the question.

20 Q. Do you have the response in front of you to
21 Interrogatory Number 5? As Braun's corporate
22 designee, with respect to the response to
23 Interrogatory Number 5, sitting here today is there
24 anything which needs to be added by way of

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1 information as to interrogatory -- the response to
2 Interrogatory Number 5?

3 A. From my perspective the cleaning center was,
4 for the client, a necessary, logical result, because
5 from the client's perspective, the client needs more
6 hygiene.

7 The client asks for systems that solve
8 problems. The client doesn't want to buy a brush,
9 and the liquid, and this, and that; he wants one
10 system within which everything is included.

11 Q. Why do you say it was then the logical
12 result for the client?

13 A. For the client the result is never the way,
14 our way, of manufacturing -- of performing the
15 cleaning, it's only the result for him, from his
16 perspective, the simplicity.

17 Q. What is logical about the result?

18 A. For example, the dishwasher; the idea to
19 avoid the things during the day which you don't want
20 to do.

21 Q. So you use the analogy of a dishwasher;
22 whereas someone in the past had to put things in a
23 sink, and wash them off, and then put them in a
24 drying rack, eventually someone put that all into an

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1 automatic system?

2 A. Yes.

3 Q. That's the type of logical result that you
4 are thinking of?

5 A. Yes.

6 Q. Is there anything else, aside from what you
7 just mentioned, that you think needs to be added to
8 the response to Interrogatory Number 5 as you sit
9 here today?

10 A. No.

11 Q. Taking you back then to your notebook you
12 were talking about yesterday, and if I could direct
13 your attention to page B 6741, and at the top I
14 believe you list the names Bach, Ebner, and
15 Faulstich, can you tell me who each of those
16 gentlemen and why -- or what role, if any, they
17 played in the development of the shaver cleaning
18 system?

19 A. I can only give an answer with regard to
20 Ebner and Faulstich. Ebner is an industrial
21 engineer for this project, and Faulstich is PPM,
22 project and program manager.

23 Q. Starting with Mr. Ebner as industrial
24 engineer, what did he do in connection with the

16 (Pages 174 to 177)

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1 shaver cleaning center project?
 2 A. He is responsible for the cost and the
 3 scheduling of the project.
 4 Q. When you say the cost, do you mean he would
 5 have the counts on the parts or how much -- let me
 6 rephrase. Was he the person responsible for setting
 7 the budget for the cleaning center project?
 8 A. No, he found out about the cost, how much it
 9 would cost if he wanted to manufacture the product
 10 at time point X.
 11 Q. Okay. I see. When you say scheduling, what
 12 do you mean by scheduling; was he setting milestones
 13 that needed to be met for --
 14 A. If we have a concept -- let's say we have a
 15 concept of a product and in 6 weeks we are going to
 16 hand in the drawings, then he is planning the next
 17 steps in the production which are needed to
 18 manufacture the product.
 19 Q. Does Mr. Ebner still work at Braun?
 20 A. Yes.
 21 Q. And what position does he hold today?
 22 A. The same.
 23 Q. Do you know or -- what steps has Braun taken
 24 to gather documents from Mr. Ebner regarding his

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1 work on the shaver cleaning center project?
 2 A. I don't know.
 3 Q. With respect to Mr. Faulstich, what role did
 4 he play in the shaving cleaning center project?
 5 A. As PPM he is responsible for the entire
 6 project. He doesn't have much to do with the
 7 technicality, but he writes reports for the senior
 8 management.
 9 Q. These are referred to as just PPM reports,
 10 is that --
 11 A. MPR.
 12 Q. To your recollection how often were MPR
 13 reports generated related to the shaver cleaning
 14 center project?
 15 A. The nomination of the report says it, it has
 16 been established monthly, the report, but it starts
 17 in reality at the moment where we officially launch
 18 the project -- oh, start, start the project, and it
 19 changes with the serial start.
 20 MR. HOESER: And then it stops.
 21 ATTY. SHIMOTA: Wait.
 22 MR. HOESER: After the serial start he
 23 stops reporting, because --
 24 ATTY. SHIMOTA: -- it's on the market.

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1 MR. HOESER: -- it's on the market;
 2 forget it, yes.
 3 Q. When you came to Braun in July of '95 were
 4 there already MPR reports discussing the shaver
 5 cleaning center project?
 6 A. I don't think so.
 7 Q. So did the project officially start when you
 8 came to Braun or approximately at the time you came
 9 -- let me rephrase. Did the shaver cleaning center
 10 project officially start approximately when you came
 11 to Braun?
 12 A. No.
 13 Q. When did the shaver cleaning center project
 14 officially start?
 15 A. I can only estimate this. I believe it was
 16 '97.
 17 Q. Why did the project officially start in --
 18 how did you -- when you began your work in July of
 19 '95, how would you categorize your work on the
 20 project?
 21 A. An R&D project.
 22 Q. Is there anything akin to an MPR report for
 23 R&D projects?
 24 A. Yes.

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1 Q. And what is that document called?
 2 A. There is no document in existence; the
 3 project manager reports to his supervisor.
 4 Q. And who -- I guess your supervisor was Mr.
 5 Schaefer and there was also Dr. Haegele?
 6 A. Yes.
 7 Q. Would you report to, I guess, Mr. Schaefer
 8 and Dr. Haegele, or one or the other?
 9 A. One month the three of us were sitting
 10 together and in broad lines I gave the milestones of
 11 the project, or presented the milestones of the
 12 project.
 13 Q. Would you usually make these presentations
 14 verbally or did you also provide written materials
 15 too?
 16 A. It was in no way could you consider this as
 17 a presentation; it was an informal communication.
 18 Dr. Haegele normally makes a tour once a week
 19 through the department, and then once a month we
 20 have the possibility to talk about the project.
 21 Q. Do you know whether the MPR reports for the
 22 shaver cleaning system product still exists today?
 23 A. Yes.
 24 Q. And how do you know that?

17 (Pages 178 to 181)

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1 A. Because they are retained in Mrs. Abraham's
2 s office.

3 Q. Do you know if Braun has made -- or what
4 steps did Braun take to gather the MPR reports
5 related to the shaver cleaning center product?

6 A. I don't know.

7 Q. And what steps has Braun taken to gather
8 documents from Mr. Faulstich related to the shaver
9 cleaning center project?

10 A. I don't know.

11 Q. If you could turn to -- well, I'll just ask
12 again. On page B 6742 you'll see reference to a Mr.
13 Stiegler. You see that?

14 A. Yes.

15 Q. What role did Mr. Stiegler play in the
16 development of the shaver cleaning center project?

17 A. He was an approbation engineer, and he was
18 my contact person with regards to what we discussed
19 yesterday about the interlock device in the cleaning
20 center.

21 Q. Did you ever correspond with Mr. Stiegler or
22 would you just communicate with him verbally?

23 A. At that time there was no e-mail yet, and I
24 personally prefer anyway to talk to people directly.

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1 Q. Do you know if Mr. Stiegler received any
2 additional documents from VDE during the course of
3 the entire shaver cleaning center project?

4 A. I can't say that.

5 Q. Well, did Braun ever have any further
6 contact with VDE regarding the shaver cleaning
7 center project?

8 A. Yes.

9 Q. And how do you know that?

10 A. I went with Mr. Stiegler on a business trip
11 to VDE and so we talked directly to the people to
12 find out what we could do to solve the problem.

13 Q. Who did you talk with at VDE?

14 A. I don't recall the name.

15 Q. Would there be any written records regarding
16 the meeting you took at VDE?

17 A. No reports authored by myself, but Mr.
18 Stiegler, because of his position, certainly
19 documented this.

20 Q. Do you know -- what steps has Braun taken to
21 gather documents from Mr. Stiegler relating to the
22 shaver cleaning center project?

23 A. I don't know.

24 Q. If you could direct your attention to B

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1 6745. If you see on that page it says meeting VDE?

2 A. Which page?

3 Q. 6745. At the top does it say meeting with
4 Mr. Stiegler July 15, 1996?

5 A. Yes.

6 Q. The line next to, you know, below, where it
7 says different line cord, somewhere in there, and I
8 am working from a translation, so if our translation
9 isn't accurate, please tell me.

10 A. Okay. Yes. I have it.

11 Q. Would this have been approximately a time
12 when you had the meeting with VDE?

13 A. I guess, yes.

14 Q. Does this refresh your recollection as to
15 whom you would have met with, seeing your notebook?

16 A. No.

17 Q. If you could direct your attention to page
18 6758. I believe at one point in the page it says
19 interim solution Mr. Braun?

20 A. Yes, I have it.

21 Q. Do you know what is meant by the entry
22 interim solution Mr. Braun?

23 A. Yes.

24 Q. What is meant by that entry?

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1 A. You want his drawings or his sketch?

2 Q. Yes. Just let me open it up. Directing
3 your attention then to the sketch, what is the
4 interim solution?

5 A. I don't know what the interim solution
6 consisted of, but the topic here was sealing the
7 motor base in the pump.

8 MR. HOESER: Yes, the motor shaft.

9 Q. Was Mr. Braun still assisting in the
10 development of -- is this a reference to Gebhard
11 Braun?

12 A. I don't know. At that point in time we had
13 several suggestions what the aspect of the sealing
14 could be, and it is possible that one of Mr. Braun's
15 ideas was still there.

16 Q. Was there a problem with the sealing of the
17 pump?

18 A. Of course. Always.

19 Q. And, well, did you eventually reach a
20 solution to that problem?

21 A. Yes.

22 Q. And was it the solution suggested by Mr.

23 Braun or may have been remaining from Mr. Braun?

24 A. No.

18 (Pages 182 to 185)

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1 Q. What was the solution?
 2 A. Mexican hat.
 3 MR. HOESER: It's a joke.
 4 ATTY. SHIMOTA: Sombrero?
 5 MR. HOESER: Sombrero.
 6 A. We built a sealing where the fitting was
 7 different than on the older one, the former one.
 8 The aspect, the visual aspect, of the sealing was
 9 the shape of a Mexican hat, of a sombrero.
 10 Q. We will get back to your notebook in one
 11 second. Let me just ask you this question and then
 12 maybe we can work through. Look back to the
 13 30(b)(6) notice, it's topic 24, which states the
 14 reason that Braun did not commercialize the
 15 synchrosystem until approximately 7 years after the
 16 alleged inventions had the patents in suit; do you
 17 see that?
 18 A. Yes.
 19 Q. What is the reason that Braun did not
 20 commercialize the synchrosystem until
 21 approximately 7 years after the alleged inventions
 22 of the patents in suit.
 23 A. The problem was that business didn't believe
 24 in the success of the product. Well, for business

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1 it was inconvenient, or it was annoying to talk
 2 about a negative topic. It was almost taboo when it
 3 came to talking about this topic. Cleaning was
 4 always a problem.
 5 Q. So the business people were skeptical about
 6 the idea of the cleaning center?
 7 A. Yes.
 8 Q. Do you recall any particular individuals who
 9 were skeptical?
 10 A. Helmut Falstich and Gilbert Greaves.
 11 Q. Do you recall a time when you came to show
 12 Mr. Greaves a prototype of the cleaning system?
 13 A. Yes.
 14 Q. Did Mr. Greaves tell you anything at that
 15 time about -- did he express anything to you at that
 16 time regarding your prototype?
 17 A. I don't recall the exact formulation he
 18 used, but it was certainly negative. The core of
 19 the message was that such a product was not needed.
 20 Q. Do you know if -- well, did Mr. Greaves ever
 21 tell you that he was aware that people had been
 22 working on a cleaning center prior to the time you
 23 began work on it?
 24 A. No.

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1 Q. Did he express to you that this -- when he
 2 saw the prototype that it was the first time that he
 3 was aware that work was being done on the cleaning
 4 center?
 5 A. No.
 6 Q. Aside from the business reasons is it
 7 correct to say that when you came to Braun in 1995
 8 Braun was -- the cleaning center was ready to be
 9 commercialized?
 10 ATTY. PATTON: Object to the form of the
 11 question.
 12 A. No.
 13 Q. Why was it not ready to be commercialized?
 14 ATTY. PATTON: Same objection.
 15 A. The essential elements were already present,
 16 but the fine work needed yet to be done.
 17 Q. When you say the essential elements, what do
 18 you mean by the essential elements?
 19 A. The removable cartridge, the cradle of the
 20 shaver, and the idea to dry using a fan.
 21 Q. So is it fair to say that the -- I mean, you
 22 worked yourself personally on the cleaning center
 23 for approximately, I guess, three and a half years
 24 before it was commercialized?

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1 A. Yes.
 2 Q. And so that period of work was essentially
 3 refining the idea or the device?
 4 ATTY. PATTON: Object to the form.
 5 A. Yes.
 6 Q. Let me ask this question, did you
 7 consider -- or did your work over that three and a
 8 half year period -- was that challenging, were there
 9 challenges that you needed to overcome?
 10 ATTY. PATTON: I object to the form of
 11 the question.
 12 A. Yes.
 13 Q. And what were those challenges?
 14 ATTY. PATTON: Same objection.
 15 A. One challenge was to convince the company
 16 that it was a good idea and to offer technical
 17 solutions which helped with convincing the company.
 18 Q. What were the technical solutions which
 19 helped to convince the company that it was a product
 20 that should be marketed?
 21 A. For example, to change the technical details
 22 so much that the design improved greatly.
 23 Q. So you mean the aesthetic appearance of the
 24 device?

19 (Pages 186 to 189)

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1 A. Yes.
 2 Q. Did the aesthetic appearance of the
 3 device -- was that something that encouraged
 4 business people to market it, to your recollection?
 5 A. That was one aspect yes.
 6 Q. Was there any other aspect that you can
 7 think of?
 8 A. The second aspect was cost related.
 9 Q. So you worked to minimize the cost of the --
 10 A. -- the product.
 11 Q. -- product. And were there any other
 12 reasons?
 13 A. And to optimize the technical elements in
 14 such a way to have as a result an optimal function,
 15 and this in the relation between the apparatus, the
 16 liquids, the shaver, and the container.
 17 Q. I understand. So just -- I guess I'm just
 18 making sure I understand. For item 24, the reason
 19 for the time, the time lapse there, was that the
 20 business people felt that there was no need for the
 21 cleaning center?
 22 A. Yes.
 23 Q. If you could turn to B 006810. I believe
 24 there is a reference to Dr. Pahl on this page.

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1 A. Mm.
 2 Q. Do you know why you entered the name Dr.
 3 Pahl on this page around this date?
 4 A. I don't remember.
 5 Q. Do you see at the top there is stated the
 6 Euromold exhibition?
 7 A. Mm.
 8 Q. Does that refresh your recollection as to
 9 why you might have listed Dr. Pahl?
 10 A. No.
 11 Q. I think we discussed yesterday you did have
 12 meetings with Dr. Pahl regarding the cleaning center
 13 project. Where would you have been having these
 14 meetings with him?
 15 A. Pahl was an informal manager; it was always
 16 on a Friday afternoon we exchanged information
 17 having a cup of coffee where he just came and said
 18 what's the stand on the cleaning center.
 19 Q. Would this be occurring like in the
 20 cafeteria, or would he come to your office?
 21 A. Most likely in my office or in his office.
 22 Q. Did he provide any -- did he assist you in
 23 any way in your work on the cleaning center project?
 24 A. Never.

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1 Q. Did he ever tell you why he was interested
 2 in the work on the cleaning center project?
 3 A. Maybe we have to add that it was Mr. Pahl
 4 who recruited me.
 5 Q. Oh, Dr. Pahl interviewed you?
 6 A. Yes.
 7 Q. When did he interview you?
 8 A. At the end of 1994.
 9 Q. At that time did he discuss with you the
 10 cleaning center project?
 11 A. No.
 12 Q. So circle back. I think you learned -- the
 13 first time you learned of the cleaning center
 14 project was when you came to Braun in '95?
 15 A. Mm-mm.
 16 Q. If you look on page 6810 there is listed
 17 Inchem, Mr. Arendt?
 18 A. Yes.
 19 Q. Who is Mr. Arendt?
 20 A. Inchem is the company that produces the
 21 cleaning liquid, and Mr. Arendt is the project
 22 manager, the chemist, of this company.
 23 Q. I believe you mentioned earlier
 24 correspondence you may have had with suppliers,

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1 third-party suppliers; is that correct? Would you
 2 have corresponded with Mr. Arendt?
 3 A. Yes.
 4 Q. Do you know if you still have any
 5 correspondence with Mr. Arendt?
 6 A. Yes.
 7 Q. And did you provide that correspondence to
 8 Braun's attorneys?
 9 A. No.
 10 Q. How do you know that you still have that
 11 correspondence?
 12 A. Because I have 3 binders.
 13 Q. Three binders of correspondence with Mr.
 14 Arendt specifically?
 15 A. Those are 3 binders in which I have all the
 16 information linked to the cleaning liquid.
 17 Q. And did you give any of those -- any of the
 18 documents in those 3 binders to Braun's attorneys?
 19 A. No.
 20 Q. Do you recall -- when you first started
 21 working on the cleaning center project do you recall
 22 what the cleaning fluid -- what cleaning fluid was
 23 used?
 24 A. Yes.

20 (Pages 190 to 193)

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1 Q. Do you know what the chemical composition of
2 the cleaning fluid was?

3 A. In broad lines roughly.

4 Q. Do you still have any documents which would
5 show what the composition of the cleaning fluid was?

6 A. Yes.

7 Q. And how do you know that you have those
8 documents?

9 A. As far as a human being can recall.

10 Q. Oh, I understand. Do you know if you would
11 have provided the document regarding the original
12 cleaning fluid to Braun's attorneys?

13 A. I did not forward any document whatsoever
14 concerning cleaning liquids to attorneys, except
15 maybe what you found here in the lab notebook.

16 Q. Oh, I understand. Aside from your own
17 documents do you know where -- any other place that
18 you would look to be able to determine the chemical
19 composition of the original cleaning fluid?

20 A. Yes.

21 Q. And where would you look?

22 A. I would call Mr. Arendt.

23 Q. So Mr. Arendt provided the original cleaning
24 fluid to someone who preceded you?

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1 A. I cannot say that, but Mr. Arendt was my
2 contact person within Inchem from the first day
3 onwards.

4 Q. Let me just make sure I'm asking this the
5 right way. Was there a cleaning -- when you came --
6 when you saw the original work from Dr. Paul and Mr.
7 Braun, was there a cleaning fluid associated with
8 that -- their work that you can recall?

9 A. Plus, minus, yes.

10 Q. How do you mean plus, minus, yes?

11 A. Yes, it was determined that the liquid, the
12 cleaning liquid, needed to be a liquid which had
13 alcohol as a basis.

14 Q. Do you know anything beyond those details?

15 A. I don't recall.

16 Q. Do you know of anyone at Braun who would
17 know the chemical composition of the cleaning fluid
18 which was used by Mr. Braun and Dr. Pahl?

19 A. No.

20 Q. If you could turn to B 6812. On this
21 document there is again referenced Dr. Pahl?

22 A. I think I have to explain to you how my lab
23 book functions.

24 Q. Oh, okay.

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1 A. On page 6810 you see Dr. Pahl without the
2 check mark? The name of Dr. Pahl without the check
3 mark, you see that?

4 Q. Yes.

5 A. So I can only assume that he called me and
6 that I thought, Well, I still have to talk to him,
7 and then I used -- I mean, I went to the next page,
8 and then up to the point where -- I carried this
9 with me until the moment came where I contacted him,
10 or I spoke with him, and then I let go -- I mean I
11 checked.

12 Q. Let me ask you this question first. Is it
13 atypical for engineers at Braun to keep laboratory
14 notebooks? Aside from yourself have you ever seen
15 any other engineer at Braun keep a laboratory
16 notebook such as this?

17 A. Yes.

18 Q. Have you ever seen an engineer who worked
19 with you on the cleaning center project keep a
20 laboratory notebook?

21 A. I don't remember.

22 Q. And I guess is it -- let me use the word is
23 it odd for an engineer to keep a -- or is it -- not
24 odd; is it rare for engineers at Braun to keep a

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1 laboratory notebook?

2 ATTY. PATTON: Object to the form of the
3 question.

4 A. I can't answer the question.

5 Q. If you could just look back at that page
6 6812 -- 6812. There are several entries there on
7 this page. I mean, there is, I think, I believe
8 indicated, a meeting with Mr. Klauer and some other
9 entries. Does anything on this page refresh your
10 recollection as to why you would have been meeting
11 or speaking with Dr. Pahl?

12 A. No.

13 Q. If you direct your attention to page 6822,
14 in the middle of that page I believe there is listed
15 Ebner regarding CreaTecnik -- fax with cartridge
16 drawing?

17 A. Mm-mm.

18 Q. Who was CreaTecnik?

19 A. I can't recall.

20 Q. Do you know -- is Mr. Ebner still at Braun?

21 A. Yes.

22 Q. Do you know if Braun has searched for any
23 documents related to CreaTecnik related to the
24 cleaning center project?

21 (Pages 194 to 197)

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1 A. I don't know.

2 Q. If you could turn to page 6840. On that
3 page there is listed Philip's analysis and cleaning
4 test. Underneath there is written short report?

5 A. Yes.

6 Q. Was this an analysis of the Philips cleaning
7 system that we discussed before?

8 A. I can't answer that. I don't know.

9 Q. Well, do you know whether a short report was
10 generated regarding the Philips cleaning -- well,
11 some Philips product?

12 A. I assume that, yes.

13 Q. Does that entry indicate that you personally
14 generated a report?

15 A. Yes.

16 Q. Do you know if you still have that report?

17 A. I don't know.

18 Q. Do you keep a separate file or binder
19 regarding analysis of third-party products?

20 A. If there was such a photo existing it was
21 among the photos which I gave to the lawyers.

22 Q. Why do you think you would have given that
23 to the lawyers?

24 A. Because I gave all my digital photos to the

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1 lawyers.

2 Q. So you believe that this report which we are
3 discussing would have been saved electronically?

4 A. Yes.

5 Q. If you could turn next to page 6844. There
6 on this page there is first listed, I believe midway
7 down, Philips cleaning liquid test report?

8 A. Yes.

9 Q. Do you know what is meant by that entry?

10 A. At that point in time 2 different Philips
11 cleaning systems were available, if I recall well.
12 Those have a cleaning liquid, and one of those
13 liquids was the object of the test, or the analysis.

14 Q. Can you describe for me what the 2 different
15 Philips cleaning systems were?

16 A. Yes.

17 Q. Would you please do so.

18 A. So one of those apparatuses was a triangular
19 shaped apparatus with a triangular opening in which
20 the demounted or unmounted, I think -- I mean, the
21 apparatus was taken apart, the cutting parts were
22 put into -- in a basket, mesh wire basket, and then
23 this basin was filled with the liquid from a bottle,
24 then the apparatus was plugged in, switched on, and

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1 then inside the liquids was -- I mean, there were
2 wavelengths passing through the liquid.

3 Q. This is an ultrasonic device?

4 A. No, because ultrasonic means specific speed
5 or frequency, and this was far below ultrasonic.

6 Q. Something is vibrating at the bottom of the
7 device to make it --

8 A. Yes.

9 Q. Your cleaning device, was it similar to the
10 cleaning device that you have that we discussed
11 earlier at Braun, the ultrasonic device that you
12 have a Braun? It's not ultrasonic, but in its
13 operation.

14 A. Yes, but it is not dangerous. The product
15 we use is a product which can only be used in
16 plants.

17 Q. In the Philips device, the vibrating device
18 we were just discussing, how were the shaving heads
19 dried?

20 A. After the cleaning you have to remove the
21 shaving head, you remove the complete basket from
22 this device, hold it under a tap, and wash the
23 cleaning liquid away. It's very important because
24 this cleaning liquid hurts your skin, so you have to

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1 make sure a hundred percent that the cleaning liquid
2 is removed from the basket and from the cleaning
3 elements. Then you have to place a towel somewhere
4 in the bathroom and place all the single bits and
5 pieces on it for, let's say, 2 or 3 hours, so drying
6 is passive and by the towel is suction.

7 Q. Could you describe for me the second Philips
8 device?

9 A. Yes. It was a device -- it was an apparatus
10 which consists in a body in which you fill the
11 liquid. There is also a dome -- so once again the
12 shaver was taken apart, the cutting devices were put
13 in the basket, and the basket is situated between
14 the lower and the upper part of that apparatus.

15 Here in this area you have the cutting
16 devices, and when we push this down, then this whole
17 area up here, it was deformed, and that way the
18 liquid is pushed up through the cutting instruments,
19 and so here you have the filtering with a fence, and
20 through this the liquid is -- I mean, the liquid is
21 passing through this upwards, upstream, and then
22 flows back through the cutting instruments into the
23 container, the basin. Here you have the filter
24 where the dirt is caught.

22 (Pages 198 to 201)

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1 Q. I understand. Was the filter removable in
2 that device?

3 A. Yes.

4 Q. And you could -- could you -- I guess, did
5 Philips sell replacement filters?

6 A. Yes.

7 Q. Let me just mark that. I think I
8 understand.

9 (Document Marked as Exhibit 70
10 for identification.)

11 Q. When you were analyzing the Philips devices,
12 why were you doing that, or why did Braun analyze
13 the Philips devices at the time?

14 A. Curiosity. It's done like process in my
15 job. When I make sun roofs, I analyze all the sun
16 roofs I can find. I dismantle the sun roof in my
17 car, the car for my wife, everywhere, so this is
18 normal thing in my job.

19 Q. I guess as part of your job as an engineer
20 you want -- you are required to look at how the
21 competition's products work?

22 A. Yes.

23 Q. And I assume when you are doing that you are
24 just trying to gain information and you are not

Page 203

1 trying to copy Philips, for example?

2 A. No, copying is not the task.

3 Q. At the bottom of this page on 6844 it says
4 there is a video of cleaning process of Philips and
5 there is Metzler by that?

6 A. Yes.

7 Q. Do you know if that video still exists?

8 A. That is the video I was looking for. We had
9 one video which we did of our own cleaning center
10 and a video about the cleaning centers of the
11 competition.

12 Q. You were unable to locate that video?

13 A. Yes.

14 ATTY. PATTON: When you come to a
15 convenient place, I just want a brief recess. We
16 would appreciate it.

17 ATTY. SHIMOTA: That's fine. That is
18 completely fine.

19 THE VIDEOGRAPHER: Off the record 11:53
20 a.m.

21 (Lunch recess.)

22 THE VIDEOGRAPHER: Back on the record
23 1:10 p.m.

24 Q. Just before the break we were discussing the

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1 Philips device, that there. Did the Philips device
2 have a cartridge?

3 A. The cartridge served as the filter. This is
4 again -- the question is, again, how do I define the
5 word cartridge. In the meantime it is so that
6 everything we can refill we can refer to that item
7 as a cartridge, and then in that case the filter is
8 also called cartridge.

9 Q. Let me make sure. I want to distinguish
10 here. How was the cleaning fluid stored or
11 introduced into the Philips device?

12 A. It was a bottle that came with it, so it's
13 blow molded bottle -- you know what blow molding
14 means?

15 Q. Yes.

16 A. -- and you tear off the top of the bottle
17 and fill the container into the upper part of the
18 appliance.

19 Q. Let me ask this question. If you can look
20 in your notebook at B 6846. If you can take a look
21 there, I believe there is a reference made to the
22 Philips cartridge, third line.

23 A. Yes.

24 Q. Are you referring then there to the filter,

Page 205

1 or what are you referring to there by that entry?

2 A. Because Inchem is mentioned here I assume
3 that I meant the bottle.

4 Q. If you could look at 6848 too, please. If
5 you could turn back to 6846, please, there is a
6 reference next to the name of Mr. Ullmann of
7 Grentner, Grenter?

8 A. Greubel.

9 Q. Oh, is that what it is?

10 A. Yes.

11 Q. Okay. I know that name. Okay. I want to
12 go to 6848.

13 A. G-r-e-u-b-e-l, I believe.

14 Q. Do you see on 6848 at the top there is
15 referenced the filter for cleaning instrument
16 Philips and there I assume you are referring to what
17 we have discussed as the filter of that device?

18 A. Yes, I guess. It's only a guess, yes.

19 Q. Who is Mrs. Schreyer?

20 A. Mrs. Schreyer is a purchase person of our
21 purchase department, a buyer. You call them buyers
22 in the US.

23 Q. Then you see at the bottom there is a
24 reference again to the Philips cartridge?

Page 206

1 A. Yes.

2 Q. And above that there is listed Rau regarding
3 recommendation, right above the Philips cartridge
4 reference?

5 A. Rau is a company in Germany that produces
6 sheet memory metal.

7 Q. Do you know what Rau would have been
8 recommending to you?

9 A. I only had one single contact with Rau, and
10 this was with regard to lock of the cleaning center,
11 or interlock.

12 Q. So you were contacting them regarding the
13 material for the interlock?

14 A. Yes.

15 Q. Did Rau ultimately provide that material?

16 A. Sure.

17 Q. Do you know if there were to be any -- well,
18 if records still existed regarding your
19 communications with Rau would they be in the binders
20 we discussed earlier?

21 A. I think that what Rau delivers is only
22 mentioned in the laboratory notebooks, because the
23 material Rau delivers is too expensive for us.

24 Q. So the material wasn't used in the

Page 207

1 interlock, or the material from Rau?

2 A. No, it was just an idea.

3 Q. If you could look to page 6936, there is a
4 discussion in the middle of the page regarding
5 Philips Philishave shave action cleaner comments.
6 Well, actually about a quarter of the way down the
7 page.

8 A. Yes. This is action cleaner.

9 Q. Next to that it's written Ebner distribution
10 of documents, and then it's additional, and our
11 translator couldn't read the last word; do you know
12 what that word is?

13 A. I don't know. I can't remember.

14 Q. Do you recall Mr. Ebner distributing
15 documents about the Philishave action cleaner?

16 A. I don't think so.

17 Q. Let me just make sure I understand. You
18 don't think the documents were distributed, or you
19 don't think you remember receiving them?

20 A. I'm pretty sure that Ebner didn't have
21 anything to do with anything happening around
22 Philishave.

23 Q. Do you know what you meant by Ebner
24 distribution of documents?

Page 208

1 A. No.

2 Q. Finally for this document if you could turn
3 to B 6988. Near the bottom of the document there is
4 listed patent registration meeting Dr. Haegele, then
5 there is another name --

6 A. Janaette.

7 Q. What name is that?

8 A. Janaette.

9 Q. Could you spell that?

10 A. J A N A E T T E, French name.

11 Q. Who was Janaette?

12 A. The lawyer from Braun responsible for
13 electronics.

14 Q. Do you recall what this particular patent
15 registration meeting was about?

16 A. I guess we had yesterday in kind of
17 protocol, or meeting minutes, something. I guess it
18 was the same or it's about this. Maybe you remember
19 yesterday we had a paper or some papers about a
20 meeting where it's written --

21 Q. That would have been in your notebook
22 actually yesterday, I think.

23 A. And this was meeting like this. We sit
24 together, discuss status of patent, and that's it.

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1 Q. Do you know why Mr. Petretty was involved in
2 this particular meeting?

3 A. Yes, because Janaette was participating as
4 well, and Janaette is Petretty represent
5 electronics.

6 Q. What did Petretty do? What was Petretty's
7 role in the development of the shaver cleaning
8 system?

9 A. He is the co-worker who works in the
10 electronic development department, which is a part
11 of the -- which represents a part of the razor
12 development -- shaver development department.

13 Q. Did Mr. Petretty develop the circuitry used
14 in the cleaning center?

15 A. Yes.

16 Q. What steps has Braun taken to collect
17 documents from Mr. Petretty regarding his work on
18 the shaver cleaning system?

19 A. I don't know.

20 Q. Do you know the names of any other
21 individuals who would have worked on the control
22 circuitry for the cleaning center?

23 A. Yes.

24 Q. Could you provide me with those names?

24 (Pages 206 to 209)

Juergen Hoeser May 12, 2005
Volume II

<p style="text-align: right;">Page 210</p> <p>1 A. Cimbal, C-i-m-b-a-l; first name J-o-c-h-e-n. 2 Q. Is there anyone else aside from Mr. Cimbal? 3 A. I don't think so. 4 Q. What steps has Braun taken to collect 5 documents from Mr. Cimbal related to his work on the 6 shaver cleaning system? 7 A. I don't know. 8 Q. Do you know if Mr. Petretty and Mr. Cimbal 9 developed the control circuitry for the original 10 cleaning center. Let me -- do you know if Mr. 11 Petretty and Mr. Cimbal developed the control 12 circuitry for the cleaning center that Mr. Braun and 13 Dr. Pahl worked on? 14 A. I don't know. 15 Q. Let me ask this question, was it considered 16 a secret that Dr. Pahl had worked on the cleaning 17 center? 18 ATTY. PATTON: I object to the form of 19 the question. You can answer it if you understand. 20 A. I don't know. It was before my time. 21 Q. Well, did you perceive that -- well, did Dr. 22 Pahl ever tell you to keep his work on the cleaning 23 center a secret? 24 A. No.</p>	<p style="text-align: right;">Page 212</p> <p>1 Q. And what is Defendant's Deposition Exhibit 2 71? 3 A. This is a chart which I put together for Mr. 4 Greaves, a summary, and this is a chart where I 5 compare what Mr. Pahl did in quotation marks with 6 what Mr. Hoeser did. 7 Q. You said you prepared this for Mr. Greaves? 8 A. Yes, this was. I remember it was prepared 9 for Mr. Greaves. 10 Q. Do you recall when you prepared it for Mr. 11 Greaves? 12 A. Four or 5 years ago. 13 Q. Did Mr. Greaves tell you why he wanted this 14 document? 15 ATTY. PATTON: Object to the form. 16 A. No. 17 Q. Do you know if Mr. Greaves used this 18 document for any purpose? 19 A. No. I don't know. 20 Q. So it's correct that you generated this at 21 the request of Mr. Greaves and then you don't know 22 what happened to it afterwards? 23 MR. HOESER: Correct me. 24 A. The request came from Dr. Haegele, and he</p>
<p style="text-align: right;">Page 211</p> <p>1 Q. Did you -- I mean, had you discussed with 2 Dr. Paul work that he had done on the cleaning 3 center? 4 A. No. 5 Q. I guess you had told me -- previously you 6 had mentioned to me that Mr. Schaefer and Mr. Klauer 7 had told you that Dr. Pahl had worked on the 8 cleaning center; are there any other individuals who 9 informed you about Dr. Paul's work on the cleaning 10 center to your recollection? 11 A. No. 12 Q. You can set aside this notebook. I'd like 13 to mark next as Defendant's Deposition Exhibit No. 14 71, a document bearing the Bates No. B 007653 -- 15 there are two -- 007656. I'm only interested in the 16 first 2 pages, and I believe there is an English 17 translation of these. 18 Actually, if you would, can I just have 19 that back. I want to rip off the last 2 pages. 20 I'll just restaple them in a second. 21 (Document marked as Exhibit 71 22 for identification.) 23 Q. I ask you if you recognize this document. 24 A. Yes.</p>	<p style="text-align: right;">Page 213</p> <p>1 told me, Okay, I should prepare this document for 2 Mr. Greaves, and I send it, I don't know, directly 3 to Greaves or by Dr. Haegele to Greaves. 4 Q. I want to make sure. Did Dr. Haegele tell 5 you why Mr. Greaves wanted this document? 6 A. No. 7 Q. I'm going to work from the English version, 8 but you can look at the German. I believe under the 9 4th bullet point under the Dr. Pahl column, does it 10 state no cartridge but integrated fluid container? 11 A. Yes. 12 Q. Under the 4th bullet under your device it 13 says removable cartridge below cleaning device, 14 cartridge taped with needle; is that correct? 15 A. Yes. 16 Q. Why did you state underneath the Dr. Pahl 17 column no cartridge but integrated fluid container? 18 A. I can only assume things. 19 Q. Well, what is your best recollection? 20 A. The task consisted in showing us, as clearly 21 as possible, the differences between the 2 devices 22 which are shown here on the picture. If the task 23 had been to describe the similarities I would have 24 brought up the liquid container in those cases.</p>

25 (Pages 210 to 213)

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1 Q. Let me see if I understand. The device
2 which is pictured underneath the Dr. Pahl column,
3 that device did not have a cartridge?
4 A. Both the devices have a liquid container.
5 Q. Sure. And wouldn't -- when you wrote this
6 document, what did you mean when you use the term
7 cartridge?
8 A. In this context I understand on the
9 cartridge from the user's perspective the simplicity
10 to remove the cartridge and easily replace it.
11 Q. So am I correct that in the pictured device
12 under the Dr. Pahl column, using the definition you
13 have just provided me, that device did not have a
14 removable and replaceable cartridge?
15 A. I would not formulate it that way.
16 Q. Well, what was the pictured device lacking
17 which led you to express that it had no cartridge?
18 A. The issue here is that the liquid container
19 is not a removable part, but part of the device.
20 Q. Who came up with the idea of having a liquid
21 container being -- well, let me ask this question,
22 did you come up with the idea of the liquid
23 container being removable from the cleaning center?
24 A. No.

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1 Q. Who came up with that idea?
2 A. That idea existed when I joined Braun.
3 There was a device with a cartridge that was
4 removable.
5 Q. There are 2 devices pictured here?
6 A. Yes.
7 Q. So I assume between -- at some point between
8 the creation of the first device under Dr. Paul and
9 the second device listed under you there is some
10 intermediate device.
11 A. Right.
12 Q. Do you know who created that device?
13 A. Yes.
14 Q. Who was that?
15 A. Braun.
16 Q. Mr. Braun?
17 A. Yes.
18 Q. Would that have been --
19 A. It's not in the time line.
20 Q. Actually, see, there is pictures here?
21 A. Okay.
22 Q. Can you find it handy, or... there are a lot
23 of pages of things. At about the third page of the
24 time line at B 2045 there is shown, listed as,

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1 Design P. Schneider.
2 A. Yes.
3 Q. Is that the device you are referring to?
4 A. Yes.
5 Q. Was that device created at some point in
6 1994?
7 A. I don't know. This is a guess from my side.
8 It's rough point in time. It could be 1993, 1994.
9 I don't know.
10 Q. Well, why did you guess 1994? Let me ask,
11 did you base your guess of 1994 upon any facts?
12 A. When I wrote this time line in '96, '97 or
13 '98, I had -- I was at a meeting once where I came
14 across a design pattern, and the design pattern
15 matched the schedule, and then I was told that the
16 design was made in '94. That is what I was basing
17 myself on.
18 Q. Who told you the design was made in 1994?
19 A. I can't remember.
20 Q. Do you know if that document, the document
21 which showed something like the device we were
22 discussing, does that document still exist?
23 A. This document, no.
24 Q. You said you found a drawing that appeared

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1 to correspond with the design where it says design
2 P. Schneider 1994?
3 A. Not drawing.
4 Q. You came across the actual prototype?
5 A. Yes.
6 THE VIDEOGRAPHER: Off the record 1:42
7 p.m.
8 (Recess taken.)
9 THE VIDEOGRAPHER: Here begins Videotape
10 Number 6 in this deposition of Juergen Hoeser. Back
11 on the record 1:46 p.m.
12 Q. Had you ever spoken -- or have you ever
13 asked Mr. Schneider when he created the design
14 represented on your time line?
15 A. No.
16 Q. Have you ever spoken with Mr. Schneider
17 about what he did with respect to the cleaning
18 center project?
19 A. No.
20 Q. Have you ever spoken with Mr. Schneider at
21 all?
22 A. Yes.
23 Q. Have you talked with him -- have you
24 discussed the cleaning center project with Mr.

26 (Pages 214 to 217)

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1 Schneider in any way?
 2 A. Yes, towards the end.
 3 Q. What did you speak with him about?
 4 A. Mr. Schneider was, in fact, always
 5 participating in this discussion, but only at
 6 those -- but only when he really wanted to do so.
 7 Q. When you say only when he really wanted to
 8 do so, what do you mean?
 9 A. So Mr. Schneider is the director, or the
 10 supervisor, director, of the design department, and
 11 so his first responsibility is to approve the final
 12 design, so when every time the design had to be
 13 drastically changed, Mr. Schneider entered his veto.
 14 Q. How would he enter -- or how would Mr.
 15 Schneider review a design change?
 16 A. All the people, except Mr. Schneider, we see
 17 on this list have to report to Mr. Schneider, and
 18 the directives that people have to follow that work
 19 in the design department are very clear every design
 20 that leaves the department needs to be approved by
 21 Mr. Schneider.
 22 Q. Was Mr. Schneider the head of the industrial
 23 design department in the 1993-1994 time frame?
 24 A. I'm not sure.

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1 Q. Was he the head when you came to Braun in
 2 the 1995? He was the head then?
 3 A. Yes.
 4 Q. I guess, I don't know if you know, but did
 5 he have to approve his own design which is shown,
 6 Design P Schneider 1994?
 7 A. I think so. Yes.
 8 Q. What form would the approval take? Was
 9 there a document? Was there some form that needed
 10 to be filled out in order to approve of something?
 11 A. No. It's the designer, so the designers do
 12 the job, coming with a mock-up into the office of
 13 Mr. Schneider, and then they discuss about what is
 14 the reason why the shaver is tilted, what is the
 15 reason why the cartridge is somewhere else, what is
 16 the reason why you like it in silver or black, and
 17 they reviewing everything, and as soon as there is a
 18 technical reason for any change, the designer says,
 19 I'm sorry, boss, Hoesser has a technical problem to
 20 solve, that's the reason why he tilted the shaver,
 21 or he needs to tilt the shaver. This is the -- so
 22 point in time where I enter the discussion.
 23 Q. I understand. As an aside, why did you tilt
 24 the shaver?

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1 A. Why?
 2 Q. Yes, why is the shaver tilted?
 3 A. The shaver is tilted because that way less
 4 liquid is left in the head.
 5 Q. So it's to encourage the draining or the
 6 speed at which the fluid drains out of the cradle?
 7 A. Yes. Not the cradle, the shaver. Both, but
 8 first of all the shaver. I can tilt in a part of
 9 the cradle as much as I need without any influence
 10 on the shaver. As soon as I tilt the shaver, then I
 11 get all the fluids flowing back into the cradle,
 12 and then from there back into the cartridge.
 13 ATTY. SHIMOTA: I would like to mark as
 14 Defendant's Deposition Exhibit No. 72 US Patent No.
 15 6236890.
 16 (Document marked as Exhibit No. 72
 17 for identification.)
 18 Q. I ask you if you recognize this document.
 19 A. Yes.
 20 Q. If you would look to the 30(b)(6) notes if
 21 you have that handy for yourself.
 22 A. Yes.
 23 Q. Defendant's Exhibit 49.
 24 A. Which number?

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1 Q. The Exhibit No. is 49, the topic number is
 2 No. 17, which is the accuracy of Braun's statement
 3 relating to German Patent No. 4402238 C 2 and US
 4 Patent No. 6236890. I ask you if you are prepared
 5 to testify on behalf of Braun regarding Topic No.
 6 17.
 7 A. Yes.
 8 Q. If you could turn to Column 1, Exhibit 72,
 9 and I guess without reading it aloud I would ask
 10 you -- there is a discussion of a figure 1 from the
 11 German patent in the second full paragraph?
 12 A. Mm-mm.
 13 Q. My question is is the statement -- is -- are
 14 the statements in the first or the second paragraph
 15 regarding figure 1 accurate?
 16 A. I cannot answer just like this, because this
 17 is written in such a difficult English I would have
 18 to prepare this in depth.
 19 Q. So you are not prepared to answer regarding
 20 whether or not the statements regarding German
 21 Patent No. 4402238 in this particular patent are
 22 accurate?
 23 A. In the German patent I am able.
 24 Q. Have you seen the German patent?

27 (Pages 218 to 221)

Page 222

1 A. Not recently.

2 Q. So I assume you didn't review the German
3 patent in preparing for your deposition.

4 A. No.

5 Q. Sitting here today with respect to this US
6 patent do you have any reason to believe that the
7 statements regarding the German patent referenced in
8 the first, the 2, or the second and third
9 paragraphs, are inaccurate?

10 A. No, I don't have any.

11 Q. I'm not going to break these up. I am only
12 going to ask you about one of these documents. Just
13 for the sake of expediting things I'm going to mark
14 them all as Defendant's Deposition Exhibit No. 73,
15 the English translations of B 007112 ENG to B 007149
16 ENG.

17 I'm will also mark the German originals
18 of these documents as -- I'll mark the German
19 originals as Defendant's Exhibit No. 74, which are
20 at B 007112 to B 007149.

21 (Documents marked as Exhibits 73 and 74
22 for identification.)

23 Q. If you could direct your attention to the
24 documents which begin at B 007123, I'm going to ask

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1 you if you recognize just that particular document.
2 I recognize there are several together, but I
3 believe the document ends at 7127. Do you recognize
4 that document?

5 A. The first page I don't recognize, but with
6 the others I do.

7 Q. What are represented by the pages that you
8 do recognize?

9 A. This is an invention document, an
10 application actually. I wrote the document.

11 Q. And is this a document that you wrote in
12 approximately November of '95?

13 A. No.

14 Q. Do you recall when you would have written
15 this document?

16 A. September.

17 Q. I see by your signature you have signed this
18 document on September 21 of 1995; is that correct?

19 A. Yes.

20 Q. Do you see what is written above the place
21 where you signed this document? It says here where
22 it was certified that all information was made to
23 the best knowledge and that no other inventors were
24 involved in the creation of the invention?

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1 A. Yes.

2 Q. When you signed this did you understand what
3 was meant by the words above your signature?

4 A. I think so.

5 Q. And how did you understand that? How did
6 you come to arrive at that understanding?

7 A. I read it.

8 Q. Had anyone ever at Braun told you that if
9 someone else -- had anyone ever told you at Braun
10 that if someone had assisted you in the creation of
11 an invention that you needed to list them as an
12 inventor as well?

13 ATTY. PATTON: Object to the form of the
14 question.

15 A. Yes.

16 Q. Who had told you that?

17 A. I assume that it was Mr. Klauer.

18 Q. Did Mr. Klauer tell you why you would need
19 to list additional inventors when you filed an
20 invention record?

21 ATTY. PATTON: Same objection.

22 A. He didn't give any explanations.

23 Q. But did you believe he -- well, did you
24 think you needed to follow Mr. Klauer's advice?

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1 A. Yes.

2 Q. And why did you follow Mr. Klauer's advice?

3 A. Mr. Klauer was, at that point in time, my
4 contact person in the patent department, and when
5 that person tells me that I have to write down the
6 names of the people who contributed in the
7 invention, then I do that.

8 Q. You follow the advice of your lawyers?

9 A. Yes.

10 Q. If you could look on the next page.

11 A. 25?

12 Q. It would be 7125, yes. Under point 4 you
13 list out patents 05818, 05838, 05839 and 05840?

14 A. Yes.

15 Q. I believe we discussed yesterday the fact
16 that Mr. Klauer had given you the patent
17 applications reflected at those numbers in the past;
18 do you recall that?

19 A. Yes.

20 Q. Would this have been the occasion when Mr.
21 Klauer likely gave you those patent applications?

22 A. I can't answer that. It is possible that
23 Mr. Klauer, upon me asking him what patent
24 applications existed, that he gave me those numbers

28 (Pages 222 to 225)

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1 and that he said that those 4 numbers needed to be
2 mentioned.
3 Q. Do you know how you would have come to know
4 those numbers if they had not come from Mr. Klauer?
5 A. Possibly from Mr. Schaefer or Mr. Haegele.
6 Q. Why would you think that Mr. Schaefer or Mr.
7 Haegele would know those numbers?
8 A. Mr. Schaefer was the boss of Mr. Braun, and,
9 Mr. Haegele, because he was a director, he knows
10 everything about the patents in his department.
11 Q. So Mr. Haegele was involved -- do you know
12 whether Mr. Haegele was involved in the prosecution
13 of patent applications within his department?
14 A. Yes.
15 Q. Do you know whether he was involved in the
16 prosecution of the patent applications which are
17 listed at -- well, the 5818, 5838, 5839, and 5840?
18 A. I don't know.
19 Q. Do you know whether Mr. Schaefer was
20 involved in the prosecution of the patent
21 applications, the numbers of which are listed?
22 A. I don't know that either.
23 Q. Underneath point 4 there is point 5, and you
24 list drawbacks of, I believe, those patent

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1 applications?
2 A. That's right.
3 Q. Were these -- are you listing here flaws in
4 the -- or are you listing here drawbacks in the
5 original work of Dr. Pahl and Mr. Braun?
6 A. Yes.
7 Q. And why was the pumping of dirty cleaning
8 fluid a drawback in the original work of Dr. Pahl
9 and Mr. Braun?
10 A. Pumping of dirty fluids limits in a dramatic
11 way the choice you have when choosing a pump.
12 Q. Why was dirty fluid pumped or was -- why was
13 there dirty -- why was there pumping of dirty
14 cleaning fluid in Dr. Pahl's and Mr. Braun's
15 original work?
16 A. Because that's how those elements were
17 aligned; cradle, pump, filter. Had to do with the
18 alignment.
19 Q. So it had to do with the -- how the fluid
20 was circulated throughout the system?
21 A. Exactly.
22 Q. So let me show you the 328 patent, see if it
23 would be helpful. I'm looking at figure 1. Do you
24 see here at the bottom; is that the filter that you

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1 referred to?
2 A. No, that's a tube.
3 Q. Can I show you another figure then? Are you
4 referring to --
5 A. That's exactly what I mentioned. The liquid
6 goes from the pump to -- from the cradle to the
7 pump, from the pump to the filter, and then back.
8 What I have done is change the position from the
9 filter from behind the pump, or between pump and
10 cradle, between cradle and pump.
11 Q. So the location -- so the problem, or a
12 drawback, was where Dr. Pahl and Mr. Braun had
13 placed the filter in relation to the pump and the
14 cradle; is that correct?
15 A. Yes.
16 Q. And ultimately you modified that such that
17 the fluid flow path went cradle, filter, pump?
18 A. (Nod.)
19 Q. If you look to Drawback No. 2, there is
20 listed accumulation of dirt in the bottom?
21 A. To be correct here it's called a sump.
22 Q. What are you pointing to? I want to make
23 sure. Oh, in the sump, I see, not the bottom. I
24 got you. Why was there accumulation of dirt in the

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1 sump?
2 A. May I?
3 Q. Sure.
4 A. This is the cartridge, or the liquid
5 container, but there is always some liquid which is
6 left over in this region over here, and that's the
7 sump, and it is normal that then in this area that
8 you have dirt accumulation.
9 Q. Was that also a problem which is
10 attributable to how the cradle, pump, and filter
11 were arranged?
12 A. Exactly.
13 Q. Under point 3 it states the liquid level in
14 the bottom, that might be the sump, the liquid level
15 in the sump and in the cartridge, must be monitored
16 and regulated; is that correct?
17 A. That's correct.
18 Q. Why did the liquid level in the sump and in
19 the cartridge need to be monitored and regulated?
20 A. I guess it's not easy to explain by using
21 these pictures. This is based on my analysis of the
22 prototype of Mr. Braun, the cleaning center
23 prototype of Mr. Braun.
24 Q. The one that is represented as P. Schneider

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1 1994?

2 A. Pete Schneider design.

3 Q. Yes.

4 A. This reflects only on design. It's not
5 reflected on the technical. This is just for
6 information. This reflects all on design.7 Q. I'm saying for the record on your time line
8 it's the point where it says P. Schneider 1994?

9 A. Yes.

10 Q. So why, just back to point 3, why was
11 that -- why did the liquid -- what is the drawback
12 described at point 3?13 A. That point is extremely difficult to
14 explain, because now we have to talk again about the
15 chicken trough.16 Q. What does the chicken trough have to do with
17 respect to point 3?18 A. Braun pursued the idea to have a cartridge
19 which was located behind the shaver, and the idea
20 behind this is that in the sump there is always some
21 liquid, and at the moment where I start the cleaning
22 process liquid is brought with the pump into the
23 cartridge.

24 Then you get an overpressure in the

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1 pump, in the cartridge, which presses fluid into the
2 cradle, and from the cradle the fluid runs back into
3 the sump, so this is basically simple, yes?4 As soon as you start the pump, you get
5 overpressure in the cartridge, fill the cradle, and
6 from the cradle it runs back into the sump, and as
7 long as the pump is running, you keep the
8 overpressure in the cartridge, and the cradle is
9 filled with liquid.10 As soon as you stop the pump, you get
11 rid of the overpressure, the cradle get empty, and
12 everything stops, and now the chicken trough.13 The problem is that the sump
14 evaporates, and as soon as the fluid level in the
15 sump drops below the level of the pump, you can't
16 generate an overpressure in the cartridge, and
17 everything stops.

18 Q. Okay. I understand.

19 A. Yes?

20 Q. Yes, I do.

21 A. Now the chicken trough, the chicken trough
22 is the tube which connects the cartridge with the
23 sump, and as long as the fluid level is higher than
24 the tube, no fluid runs from the cartridge back into

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1 the sump.

2 As soon as the fluid level goes below
3 the tube, air goes into the cartridge, and then
4 fluid runs directly from the cartridge into the sump
5 and maintains the level, and that's the chicken
6 trough.7 ATTY. SHIMOTA: Let's mark that as
8 Defendant's Deposition Exhibit No. 75.9 (Document marked as Exhibit 75
10 for identification.)11 Q. So with respect to, just turning back to
12 your invention disclosure record for points 3 -- I
13 guess 3, 4 and 5, are they all related to, I guess,
14 the operation of the 1994 device?

15 A. Yes.

16 ATTY. SHIMOTA: I would like to mark as
17 Defendant's Deposition Exhibit No. 76 the English
18 translation of a document beginning at B 007536 and
19 ending at B 006635, and I'll hand you as well -- I'm
20 marking as Defendant's Deposition Exhibit No. 77 the
21 German original which is located at B 006536 and
22 which ends at B 006635.23 (Documents marked as Exhibits 76 and
24 77 for identification.)

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1 Q. I'll just ask you initially if you recognize
2 what is reflected as Defendant's Exhibit No. 77.

3 A. Yes.

4 Q. What is Defendant Deposition Exhibit No. 77?

5 A. It's my lab notebook.

6 Q. If you turn to B 6542, the day listed at the
7 top of July 3, 1995, would that be approximately
8 your first day at Braun?

9 A. Yes.

10 Q. Underneath -- well, immediately underneath
11 where it say orientation, it states then information
12 regarding washing machine; is that correct?

13 A. Yes.

14 Q. Underneath there there is listed drawings,
15 parts list, and specification sheet, and there is a
16 question mark next to that?

17 A. Yes.

18 Q. Is that a reference to the materials
19 provided to you by Mr. Schaefer?

20 A. Yes.

21 Q. That would have been, approximately, the 20
22 or so documents in the binder that we discussed
23 yesterday?

24 A. Yes.

30 (Pages 230 to 233)